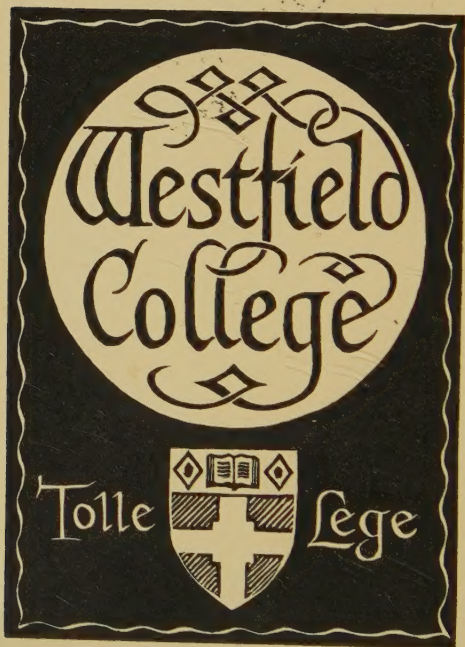




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THE UNIFICATION OF  
SOUTH AFRICA

EDITED WITH AN INTRODUCTION BY

ARTHUR PERCIVAL NEWTON

M.A., D.Lit., B.Sc., F.S.A.

RHODES PROFESSOR OF IMPERIAL HISTORY IN THE UNIVERSITY OF LONDON

IN TWO VOLUMES

VOL. II



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LVII. EXTRACTS FROM REPORTS OF MEETINGS HELD  
FOR THE ESTABLISHMENT OF BRANCHES OF HET  
VOLK, February, 1905.

[Parl. Pap., C. 2479, pp. 110-112.]

From *The Star*, 13 February, 1905.

VIOLENT SPEECH BY GENERAL BEYERS.

Pietersburg, Sunday (Special). — An outstanding feature of the meeting held here yesterday, to establish a branch of "Het Volk," was the speech delivered by General Beyers. He and Mr. A. D. Wolmarans arrived from the country districts about noon, and, in the afternoon, addressed a meeting in Hughes' Hall, convened for the purpose of adopting the statutes of the new Boer organisation. Numbers of Dutch-speaking people attended, and the audience included several inhabitants not in sympathy with the new association. . . .

Speaking at first quietly, [General Beyers] later indulged in several strong remarks. He said no doubt the Government was trying to do its best, but the results of its endeavours were sufficient to show that it was utterly incompetent. Much had been talked about conciliation, but he failed to see where conciliatory measures had been offered. He compared the Government to a huge boulder rolling down hill, and gaining speed in its descent. It wished to stop its downward movement by offering what was called a concession in the shape of Representative Government. This was merely a prop, and would only act as a brake on the downward course to ruination. He advised the people to accept nothing less than Responsible Government, so that the

country might be restored to a state of prosperity. If things continued as they were now, some people, British as well as Boers, would have to steal to put bread in their families' mouths, and the consequence would be that they would act like that man Bezuidenhout, who threw himself down behind a big stone, and used his rifle to defend himself.<sup>1</sup> (Cheers.)

Continuing, the speaker declared that men would become desperate, and went on: "You know what it is, burghers, when men are desperate. It will lead to another war in South Africa if the Government does not treat us more fairly. . . ."

The General then criticised the native policy, and said, if Responsible Government were granted, "Het Volk" would advocate the old course of action in force for the government of Kaffirs before the war. "What has been the consequence of the new policy?" he asked. "The native now finds that the taxes are the same if he works for the farmer or in the location. Consequently he does not give the agriculturist a chance of employing labour." He was absolutely opposed to Chinese importation, or the free influx of Asiatics, "Het Volk's" objects being to make South Africa a white man's country. Capitalist rule was a bad rule. Let them look at Rhodesia, for example, and they found that the country had gone to the dogs, and that everyone was flying away. The same would happen here, unless something was done. Johannesburg was trying to rule the country. The capitalists had declared war against the country people. He was opposed to the "one vote, one value" principle. In England it was not in force. London had a population of 6,581,000 people, and

<sup>1</sup> This was in reference to the incident that formed the origin of the Slachter's Nek rebellion in 1815-16. Frederick Bezuidenhout defied the Judges of the Circuit Court, at Graaf-Reinet, in 1815, and was shot in the act of resisting the Under-Sheriff, who had been sent to apprehend him.

England had 433 representatives. If worked on the "one vote, one value" basis, London would have 96 members, instead of its present 62. Redistribution should be left to the Government. The capitalists could create a boom when they liked. They would do so before the elections, so that thousands of newcomers could easily flock to Johannesburg and thus obtain extra members, whereas such a large influx was not likely to come to any particular country district. Mr. Abe Bailey wanted the voting to take place on one day. He was evidently afraid "Het Volk's" supporters would have the audacity to stand for Johannesburg and knock the other side silly. "Het Volk" would bide its time, and, when the Constitution was formulated, would call a meeting, and thrash questions out thoroughly.

*The Star* made the following comment at the end of its report : The above is a gist of the speech, which was punctuated with cheers and appreciated by most of those present. It was passionately delivered and enthusiastically received. It is only fair to add that several of the more enlightened Boers, including two or three members of the Pietersburg committee, disapproved of the tone of the speech. As far as his criticism of the present native conditions is concerned, General Beyers' statement is sound.

Resolutions in favour of Responsible Government and an equal grant to the Orange River Colony were adopted. . . .

#### EFFECT AT PRETORIA OF THE RASH SPEECH.

Pretoria, Monday (Special).—The published reports of the political speech made by Mr. Beyers, who is a member of the head committee of the Boer Party "Het Volk," at the Pietersburg meeting, have been received here with great surprise by the British and with the utmost consternation by the Boer Party.

Both sections agree that his remarks with reference to a second "Slachter's Nek" incident and possible



rebellion were most unwarrantable and are sure to create a very bad impression in England.

They state that even if the Imperial Government had in contemplation the granting of full Responsible Government in the near future (a matter which the Boer confidently believes) statements such as these coming from one of the Boer leaders, would instantly compel the Imperial Government to shelve any such scheme for a considerable time, to abandon even the idea of immediate Representative Government, and to let Crown Colony Government remain in force for the present.

Among the local British section of the public, both Representative and Responsible Government parties, General Beyers's utterances and threats are regarded in a very serious light, especially when they are taken in conjunction with Mr. Hans Burger's recent speech.

At the meeting held by General Louis Botha at Krugersdorp, Mr. Burger expressed publicly "his honest desire for the establishment of a United South Africa under its own flag," which caused General Botha to interfere and to inform Mr. Burger that such a statement should not be made.

I [*The Star* correspondent] have interviewed several of the local leaders of the Boer organisation, "Het Volk," and they one and all expressed their indignation and utter astonishment at the fact that one of their number should go so far as to make such threatening remarks. They disclaimed all responsibility in the matter and intend calling upon Mr. Beyers to explain his attitude.

One of the leaders, when asked his opinion as to Mr. Beyers's speech, said: "It is all rot. I do not understand the man at all."

Another very prominent leader of the Boer party said that if Mr. Beyers had actually made those statements, all the other leaders would absolutely dissociate themselves from him, and Mr. Beyers would be hurried

back to obscurity as fast as he became a prominent Boer leader during the late war. Mr. Beyers, he continued, was only a child in politics, a fact which he had himself admitted at the Pretoria meeting. Before the war he was an attorney at Boksburg and it was only during the latter part of the war, when he commanded the Boer army in the northern districts, that he made a name for himself among the burghers.

"How on earth," exclaimed my informant, "could we ever expect to gain in the present state of affairs what we could not achieve when we were well armed?"

Continuing, he said the Boer leaders were anxiously awaiting explanations from Mr. Beyers, and if the reports of his speech with its insurrectionary ideas proved correct, he would be deposed and compelled to retire into obscurity.

LVIII. COMMISSION APPOINTING THE RIGHT HON. THE  
EARL OF SELBORNE TO BE HIGH COMMISSIONER  
FOR SOUTH AFRICA, 15 March, 1905.

[House of Commons Papers (1905), 130, pp. 59-60.]

COMMISSION PASSED UNDER THE ROYAL SIGN MANUAL AND  
SIGNET, APPOINTING THE RIGHT HONOURABLE THE EARL  
OF SELBORNE, P.C., TO BE HIGH COMMISSIONER FOR SOUTH  
AFRICA.

Dated 15th March, 1905.

EDWARD R. & I.

EDWARD THE SEVENTH, by the Grace of God of the  
United Kingdom of Great Britain and Ireland and  
of the British Dominions beyond the Seas King,  
Defender of the Faith, Emperor of India: To Our  
Right Trusty and Right Well-beloved Cousin and  
Councillor William Waldegrave, Earl of Selborne,  
Greeting.

We do, by this Our Commission under Our Sign  
Manual and Signet, appoint you, the said William

Appoint-  
ment of  
the Earl of  
Selborne  
to be High  
Commis-  
sioner.

Waldegrave, Earl of Selborne, to be, during Our pleasure, Our High Commissioner for South Africa, and as such High Commissioner to act in Our name and on Our behalf, and in all respects to represent Our Crown and authority in matters occurring in South Africa beyond the limits of Our Colonies of the Cape of Good Hope and Natal, and beyond the limits of any other place or territory in South Africa, in and over which We may from time to time have appointed a Governor.

Powers and  
duties of  
High Com-  
missioner.

II. And We do hereby authorise, empower, and command you to exercise in Our name and on Our behalf all jurisdiction, power, and authority in regard to Basutoland, the Bechuanaland Protectorate, Southern Rhodesia, and Barotziland—North-Western Rhodesia, or elsewhere, which are now or shall hereafter be vested in Our said High Commissioner.

High Com-  
missioner  
empowered  
to transact  
all lawful  
business  
with the  
Representative  
of any  
Foreign  
Power in  
South  
Africa.

III. And We do hereby authorise, empower, and command you, as such Our High Commissioner, to transact in Our name and on Our behalf all business which may lawfully be transacted by you with the Representative of any Foreign Power in South Africa, subject nevertheless to such instructions as you may from time to time receive from Us or through one of Our Principal Secretaries of State. And We do require you, by all proper means, to invite and obtain the co-operation of the Government of any Foreign Power in South Africa towards the preservation of peace and safety in South Africa, and the general welfare and advancement of its territories and peoples.

Dealings  
with  
Native  
Tribes.

IV. And We do hereby authorise, empower, and command you as such Our High Commissioner, in Our name and on Our behalf, to take all such measures, and to do all such things in relation to the Native Tribes in South Africa with which it is expedient that We should have relations, and which are not included within the territory of any Foreign Power, or within

any territory for the administration of which We may from time to time have otherwise provided, as are lawful and appear to you to be advisable for maintaining Our Possessions in peace and safety, and for promoting the peace, order, and good government of the Tribes aforesaid, and for preserving friendly relations with them.

V. And We do hereby authorise and empower you, by Instruments under your hand and seal, to appoint so many fit persons as in the interest of Our Service you shall think necessary to be your Deputy Commissioners, or to be Resident Commissioners or Assistant Commissioners, and by the same or other Instruments to define the districts within which such officers shall respectively discharge their functions: And We do hereby authorise and empower every such Deputy or Resident or Assistant Commissioner to have and exercise within his district such of the powers and authorities hereby conferred upon you, Our said High Commissioner, as you shall think fit to assign to him by the Instrument appointing him, subject nevertheless to such directions and instructions as you may from time to time think fit to give him. And We do declare that the appointment of such Deputy or Resident or Assistant Commissioners shall not abridge, alter, or affect the right of you, Our said High Commissioner, to execute and discharge all the powers, authorities, and functions of your said office.

VI. And whereas it is desirable that the administrations of our various Colonies and Protectorates in South Africa should act in harmony in regard to subjects of common interest, such as the treatment of natives, the control of armed forces, the traffic in arms and ammunition, and the working of railways, posts, and telegraphs: We do direct you from time to time, as may seem to you expedient, to invite the Officers administering the

High Commissioner empowered to appoint Deputy, Resident, or Assistant Commissioners. Powers and authorities of such Commissioners.

Officers administering the Governments of the various British Colonies and Protectorates in South Africa to be invited to send representatives to confer on subjects of common interest.

## 8 THE UNIFICATION OF SOUTH AFRICA

Governments of Our said Colonies and Protectorates to send representatives to confer with you as such Our High Commissioner and with each other on the measures to be taken in regard to any or all of such subjects of common interest.

Supersedes  
Commis-  
sion of the  
6th Oc-  
tober, 1900.

VII. And further We do hereby appoint that, so soon as you shall have entered upon the duties of the office of High Commissioner, this Our present Commission shall supercede the Commission under the Sign Manual and Signet of Her late Majesty Queen Victoria, bearing date the sixth day of October 1900, appointing Sir Alfred Milner (now Our Right Trusty and Well-beloved Cousin and Councillor, Viscount Milner, Knight Grand Cross of Our Most Honourable Order of the Bath, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George), to be High Commissioner.

Officers  
and others  
to aid and  
assist the  
High Com-  
missioner.

VIII. And We do hereby command all and singular Our Officers and Ministers, Civil and Military, and all the inhabitants of Our Possessions, and all other Our loyal subjects in South Africa, to be aiding and assisting unto you, in execution of this Our Commission.

Given at Our Court at Saint James's, this Fifteenth day of March 1905, in the Fifth year of Our Reign.

By His Majesty's Command,

ALFRED LYTTTELTON.

LIX. RIGHT HON. ALFRED LYTTTELTON, SECRETARY OF STATE FOR THE COLONIES TO SIR ARTHUR LAWLEY, LIEUTENANT-GOVERNOR OF THE TRANSVAAL TRANSMITTING LETTERS PATENT, 31 March, 1905.

[Parl. Pap., Cd. 2400, pp. 1-6.]

DOWNING STREET,

March 31, 1905.

SIR,

IN transmitting to you the Letters Patent which His Majesty has been pleased to issue, making provision



for the introduction of elected Representatives into the Transvaal Legislature, I propose to review the circumstances which have influenced His Majesty's Government in tendering their advice to His Majesty on the subject.

Since I announced in the House of Commons, on the 21st July, 1904, that steps would shortly be taken to amend the existing political Constitution of the Transvaal Colony, I have had the advantage of discussing with Lord Milner confidentially, at considerable length and with much detail, the best means of carrying into effect that decision. I have received also from him information as to the state of opinion in the Colony, the distribution of population, and other facts of essential importance, and I have studied carefully the copious expressions of local opinion in the press and in the speeches and Resolutions at public meetings. His Majesty's Government have the satisfaction of knowing that Lord Milner, with his long experience of South African political and administrative conditions, concurs generally in the line of action which they have decided to follow, and they believe that it will command the adhesion of sensible and prudent men both in South Africa and in other parts of the British Empire.

It was never the intention of His Majesty's Government that the new Colonies should be for any length of time governed as Crown Colonies. This was made clear soon after the Proclamation of Annexation by my predecessor's statement in the House of Commons on the 7th December, 1900, when he said: "I believe we can promise that there shall be throughout South Africa equal laws, equal liberty—not, indeed, political independence (in the first instance, that must be more restricted in these two Colonies than it is in the Colonies of the Cape and Natal), but a liberty and Constitution leading ultimately to self-government, which we all

desire to see established as soon as possible." In accordance with this pledge, Article 7 of the Terms of Peace of May 1902 contains the promise that "Military Administration in the Transvaal and Orange River Colony will, at the earliest possible date, be succeeded by civil government, and, as soon as circumstances permit, representative institutions leading up to self-government will be introduced."

The intentions of His Majesty's Government in regard to the fulfilment of that promise were more precisely stated by Mr. Chamberlain in the House of Commons on the 29th July, 1902, when he said, in speaking of Crown Colony government: "That is the first step. But we have always, from the very first, declared that that was only the first step; that we should go on gradually, and that the next advance would be to add to the official element a non-official element which would be, in the first instance, a nominated non-official element. Then we should go on from that probably to substitute for the nominative element an elective element; and after that nothing would separate us, but the circumstances of the time, from that full self-government which is, and always has been, our ultimate goal."

His Majesty's Government have thus given very distinct and specific pledges as to the course which the development of the political Constitution of the two Colonies should follow. The import of those pledges cannot be mistaken, and they have been given, not to one section or another of the population of whatever numerical importance or racial origin those sections may be, but to the inhabitants of the two Colonies as a whole. The promise was made to the entire community in December 1900. It was repeated and confirmed to those who, on the 31st May, 1902, by the Terms of Peace, acknowledged themselves to be the subjects of His Majesty.

Considerable progress towards self-government has already been made. After the abolition of martial law, a nominated Legislative Council containing a minority of non-officials was established in each Colony. In municipal affairs great advances have been made. Elective Municipalities or Local Boards have been established in all the towns and larger villages of the Transvaal; while in the Orange River Colony, where similar institutions existed before the war, they have been in full operation since its conclusion. In all their domestic affairs the urban centres of the new Colonies are completely self-governing communities. The extension of Elective Boards to rural districts in the Transvaal has, it is understood, only been suspended because a deputation of the Farmers' Congress, received by you on the 25th of May last, expressed apprehensions that the system might prove too expensive.

In July last His Majesty's Government felt that, so far as the Transvaal is concerned, the time had arrived when they could rightly meet the expectations created by the undertaking of my predecessor, and could take the next of these successive steps ultimately leading to full self-government. The moment seemed to be the more opportune because the Census had just been taken, and the result, which would be known a few months later, would make it possible to consider a distribution of representation in some proportion to the population. His Majesty's Government had also in mind the fact that the term of the present nominated unofficial members of the Legislative Council would expire in May 1905, and that it would be convenient to inaugurate elective representative government, if possible, by that date or not much later. Accordingly, on the 21st July, I made the already-mentioned announcement in the House of Commons, that His Majesty's Government had decided to give elective representative institutions

to the Transvaal, and to substitute an elective element for the present nominated element in the Legislature.

Apart from the declarations which have been made and the pledges which have been given, the following considerations must be held to govern the grant of elective institutions to the new Colonies at the present time.

The Terms of Peace, to which I have referred, contemplate "representative institutions leading up to self-government." By "self-government" is meant, of course, the system under which not only legislation, but the very existence of the Executive, is based upon the consent of a majority in the Legislative Chamber. His Majesty's Government are aware that large sections of the people of the Transvaal have expressed the view that self-government in this sense should at once be granted, but they think now, as they did when the Terms of Peace were made, that some time, though not, they hope, a very long time, must still pass before the people of Colonies recently annexed after a long war should be entrusted with so great a control of their destinies.

Full self-government, as it is understood in the United Kingdom and in the self-governing Colonies, implies, and involves in practice, party Government; that is, control both of administration and legislation by the political leaders of the party which holds a majority in the Legislature. In a country which possesses a certain degree of homogeneity based either on unity of race and language, or on a long history in common, or, better still, on both, this system can work well. It does not follow that the system of party Government would at once be beneficial to a country like the Transvaal inhabited by two distinct races, or until the memories of a war which of necessity caused much loss and suffering and of the long period of political grievance and disability which preceded that war have become less acute.

Parties in the Transvaal must for some time yet mainly coincide with the line of races, and party Government would most probably mean government by one race or the other. It will become more practicable when the two races have, with equal rights of citizenship, lived and acted somewhat longer together, and when bitter memories have become softened by the healing effect of time.

Representative institutions, which bring together in one Assembly the freely elected representatives of all sections of the people to discuss questions of common concern and to transact common business, should materially aid in this harmonising process. But to constitute at once, and at the very birth of elective representative institutions, a complete system of Government by party would, it must be feared, as conditions stand at present emphasise and stereotype the racial line, by making it also the dividing line between Government and Opposition. His Majesty's Government are not prepared to take this responsibility, and they have reason to believe that they are supported in their view by a great body of opinion in the Colony itself. It must not be forgotten that a system of party Government would be new to the inhabitants of Dutch origin in the Transvaal, whose institutions differed materially from the system known in British Colonial history as "responsible government," with which Government by party is inseparably connected.

For these general reasons His Majesty's Government have always adhered to the policy stated by Mr. Chamberlain in the House of Commons at the end of the year 1900, and embodied in the terms of the Agreement made with the Boer leaders at the end of the war. They have never swerved, or been tempted for a moment to swerve, from their view that the establishment of elective representative institutions must precede



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by some interval the concession of full self-government.

This policy is dictated by the particular circumstances of the Transvaal, especially when regard is had to the fact that the precedent of the Transvaal will govern the procedure in the case of the Orange River Colony in due time. Moreover, it is based upon the lessons of experience. Other Colonies have passed through this stage on their way to full self-government. This was the history of Upper and Lower Canada before the union of 1840 and for some years after it; of the Australian Colonies, and New Zealand; of Cape Colony and Natal. There seems to be no reason for departing from precedents tested by experience in the case of a Colony like the Transvaal, in which the problems of government are so singularly difficult and the interests of the Empire are so closely concerned.

It is true that in the case of Canada full responsible government was conceded, a few years after a troublous period culminating in a brief armed rising, to a population composed of races then not very friendly to each other, though now long since happily reconciled. But the Canadas had by that time enjoyed representative institutions for over fifty years, the French Canadians had since the year 1763 been continuously British subjects, and the disorders which preceded Lord Durham's Mission and the subsequent grant of self-government could not compare in any way with a war like that of 1899 to 1902. It is also the fact that in the united Colony of Upper and Lower Canada during the period 1840-1867 parties were formed mainly upon the lines of races, and that, as the representatives of the races were in number nearly balanced, stability of Government was not attained, a difficulty which was not overcome until the Federation of 1867, accompanied by the relegation of provincial affairs to provincial Legislatures,

placed the whole political Constitution of Canada upon a wider basis. It must further be remembered that, although there is an analogy between Canada and the South African Colonies, in that they alike comprise two European races of different origin, in South Africa the presence of a coloured population numerically much in excess of the white population makes it necessary to move with greater caution in the direction of political change.

The immediate grant of full self-government to the new Colonies not being, in the opinion of His Majesty's Government, as yet practicable, they have had under their careful consideration to what degree the present purely nominative element in the Legislature should be replaced by one of an elective character. It might well be contended that the safest and most prudent course would be merely to replace the existing nominated non-official minority in the Legislative Council by an elected minority. In this way the Council would be brought into more direct touch with the people, but the ultimate decision in all matters would rest with the Government, supported if necessary by the official majority.

His Majesty's Government very carefully considered this expedient, but came to the conclusion that it would not satisfactorily meet the circumstances with which they had to deal. Although not prepared at present to give full self-government to the Colony, they wish to concede the utmost liberty compatible with safety and with the stability of the Administration. The form of Legislature in which the elected members are in a minority has much to recommend it where the European population is of a less permanent character or not likely to increase largely, but as a step towards full self-government, and a means of education to that end, it is of little practical value, and His Majesty's Government recognise that the inhabitants of the Transvaal have a

right to expect such an elective majority as will give them an effective control of legislation.

His Majesty's Government decided, therefore, that the Constitution of the Transvaal should be re-cast by the establishment of a Legislative Assembly in which, with the exception of the Executive officers, all members should be elected, and that there should be a very large majority of elected members. His Majesty's Government are quite alive to the difficulties which attend a system of this kind. Experience has frequently shown that when an elected majority are able to impede an Executive Government, though they cannot displace it, there may be much friction. On the other hand, a system of this kind proved in Cape Colony from 1853 to 1872, and in Natal between 1856 and 1893, to be a school for self-government, a means of bringing citizens together in political co-operation, and a sphere for the natural selection of the men most fit to lead and ultimately to undertake the responsibility of administration.

I have dealt so far with the fundamental character of the new Constitution. I now desire to direct your attention to certain important dispositions necessary to carry it into effect.

As regards the franchise, there appears to be a general agreement that it will be well to adopt a franchise similar to the municipal franchise already existing for the towns, but somewhat lower, so that it may be applied to the whole country, subject to the proviso that ex-burghers over the age of 21, whose names were on the voting lists under the South African Republic, should be allowed to continue to exercise the franchise without pecuniary qualification. This will secure a very liberal measure of representation, and at the same time will confirm in their electoral privileges a class which the misfortunes of war have, it is hoped, only temporarily

impoverished. His Majesty's Government have been unable, having regard to the terms of peace signed in 1902, to make provision for the representation of any of His Majesty's coloured subjects. As a protection, however, for the interests of those sections of the population which are not directly represented in the Legislature, the Governor will, as now, be required by his Instructions to reserve any Bill whereby persons not of European birth or descent may be subjected to any disability or restriction to which persons of European birth are not also subjected.

His Majesty's Government consider that, having regard to the number of members in the former Volksraad, and to the present population, the Legislative Assembly should consist of from thirty to thirty-five elected, in addition to from six to nine official, members. This number will, they understand, meet the wishes of the community. A smaller number of elected members would be insufficient to ensure a Legislature thoroughly representative of the various interests of the country, whilst a larger number would seem to involve for the present too great a demand upon the community, especially in view of the fact that the system of automatic redistribution which has been adopted will inevitably lead to a considerable increase in the number.

His Majesty's Government have fully considered the possibility of preserving the old constituencies while adding new ones to them, but an examination of the result of the recent Census reveals very serious inequalities between them. At one end of the scale is Barberton, with a white population of 2,642, of whom 1,143 are adult males; at the other end, Standerton, with a white population of 11,192, of whom 3,267 are adult males. The whole policy of the late South African Republic was in the direction of giving altogether disproportionate power to the country population,

of which a striking proof is afforded by the disfranchisement of towns in 1886. Even in the last year of the Republic only one Representative was allotted to Johannesburg, with a population at that time of 76,500, while the districts of Rustenburg and Lydenburg, with populations of 13,000 and 3,500 respectively, each possessed two. It is difficult to justify in a new country, in which there are no constituencies dating back to a distant past, the perpetuation of an electoral system which would allot to constituencies such as Barberton, with 1,143 possible voters, equality of representation with (say) Standerton, which has 3,267, and would add to these inequalities the grave anomaly of new urban constituencies, deliberately created, which would have necessarily as their basis the maximum electorate of the rural constituencies. Such a proceeding would revive and accentuate antagonism between town and country, and His Majesty's Government have come to the conclusion that the right course is to follow the numerical principle, as has been done in the most recent and important Colonial Constitutions, with its accompaniment of automatic redistribution.

The question whether the electoral districts should be framed on the basis of the number of voters or on the basis of population has also been carefully considered. In many countries where population has been taken as the basis, the number of voters in each constituency bears a fairly even ratio to its total population. But the peculiar circumstances of the Transvaal have led to the result that at present the adult male or voter population in certain regions is much larger in proportion to the rest of the population than it is in others. The reason for this is that in the rural districts early marriages and large families are the rule, while in the rapidly increasing industrial and urban districts there are at present a great number of young unmarried men. If, therefore,



the whole population were taken as the electoral basis, a man in one district would have an unjustified preference over a man in another and a vote the value of which would be out of proportion to his contribution to the wealth of the country. Moreover, if population be taken as the basis, redistribution must be governed by the Census, which is in ordinary course taken every ten years, and to take it more frequently would involve unusual and serious expense; thus automatic redistribution would be hampered and delayed, and large numbers would be deprived for unduly long periods of an adequate voice in the political affairs of the country.

A Commission will be appointed to create from thirty to thirty-five electoral districts upon the principle of an equal number of voters, and, for the purpose of enabling voters' lists to be compiled in advance, an Order in Council, a copy of which is inclosed, has been passed, making the necessary provision for registration of voters. This Commission will give due consideration to boundaries of existing administrative divisions, and will have power to adopt, in settling the boundaries of electoral districts, a margin of 10 per cent. of the quota of voters.

In accordance with the practice in similar Constitutions a Civil List has been reserved, which makes provision for the salaries of the Lieutenant-Governor, the Judges of the Supreme Court, and the members of the Executive Council, and also for the sums payable out of the revenues of the Colony to the Intercolonial Council under the Order in Council of the 20th May, 1903.

I have now reviewed the matters of vital importance, and it is not necessary for me to refer to the details of the provisions which are set out in the Letters Patent.

In dealing with this question of a change of Constitution, His Majesty's Government have not overlooked the fact that the United Kingdom has a great financial interest in the political stability of the Transvaal,

because as part of an arrangement whereby the British Exchequer guaranteed to the Colony the interest and principal of a loan of 35,000,000*l.*, certain prominent and representative persons undertook that the Colony should make a contribution of 30,000,000*l.*, towards the cost of the war. The Colony has reaped the advantage of the guarantee, which has enabled the taxpayers to obtain the resources necessary for the development of the country on considerably easier terms than would otherwise have been possible.

His Majesty's Government are aware that it would be competent to them to ask the existing Legislative Council to pass the necessary legislation for the purpose of raising a war contribution loan, and that the issue of the first instalment of 10,000,000*l.* might then be made as soon as the financial position of the Colony enabled it to meet the charges of the additional debt; but they are anxious to avoid any appearance of imposing or exacting this contribution by compulsion. They desire that the contribution should be made—not so as to arrest the sufficient development of the Colony, or to impose undue taxation upon its citizens, but in the same willing spirit in which it was promised, reflecting the worthy desire to share the immense burthens which have fallen, as the result of the war, on all classes in the Motherland.

Actuated by this desire, and relying on the loyal spirit of their fellow-subjects in the Transvaal, His Majesty's Government have decided not to press forward the necessary legislation in the Legislative Council which is so shortly to expire, and have deliberately left the matter to the new Representative Assembly, in the assured belief that they will do what is right and just.

It is necessary to state here briefly the reasons why His Majesty's Government have not proposed that a change similar to that now made in the Constitution

of the Transvaal should be simultaneously made in that of the Orange River Colony. They recognise that there are industrial and economic conditions peculiar to the Transvaal which make it very desirable in that Colony to have at the earliest possible date some better means of ascertaining the views of the different sections of the population than the present system affords. The question as regards the Orange River Colony being a less urgent one, it appears to them that there will be advantage in allowing a short period to intervene before elective representative institutions are granted to the last-named Colony, because this will permit His Majesty's Government to observe the experiment, and, if need be, to profit by the experience so gained.

His Majesty's Government recognise that the grant of the new Constitution in the present circumstances of the Transvaal, and so soon after the end of the war, will be regarded by some as a step not unattended by risk. On the other hand, they are aware that this Constitution will not satisfy the aspirations expressed recently by a large number of people in the Colony itself. It has, however, been the subject of their most careful deliberation, and it represents their final view as to the extent to which it is reasonable to proceed at the present time.

His Majesty's Government trust that those of British origin in the Transvaal who, with honest conviction, have advocated the immediate concession of full responsible Government will recognise the soundness and cogency of the reasons, both in their own interests and in those of the Empire, for proceeding more cautiously and slowly, and that under a political system which admittedly has its difficulties they will, notwithstanding a temporary disappointment, do their best to promote the welfare of the country and the smooth working of its institutions.

The inhabitants of Dutch origin have recently witnessed, after their gallant struggle against superior power, the fall of the Republic founded by the valour and sufferings of their ancestors, and cannot be expected, until time has done more to heal the wound, to entertain the most cordial feelings towards the Government of the Transvaal. But from them also, as from a people of practical genius, who have learned by long experience to make the best of circumstances, His Majesty's Government expect co-operation in the task of making their race, no longer in isolated independence, a strong pillar in the fabric of a world-wide Empire. That this should be the result, and that a complete reconciliation between men of two great and kindred races should, under the leading of Divine Providence, speedily come to pass, is the ardent desire of His Majesty the King and of His Majesty's Government.

I have, etc.,

ALFRED LYTTTELTON.

LX. EXTRACT FROM LETTERS PATENT<sup>1</sup> PROVIDING FOR THE CONSTITUTION OF AN ELECTED LEGISLATIVE ASSEMBLY IN THE TRANSVAAL, 31 March, 1905.

[Parl. Pap., Cd. 2400, pp. 6-10.]

Whereas We think fit that the people of Our Colony [of the Transvaal] should be represented in the Legislature thereof by elected members, and We are minded to amend [our] Letters Patent in order to provide for the election of such members, and to make other and further provision for the government of the said Colony ;

Now know ye that We do declare Our will and pleasure to be as follows :—

<sup>1</sup> These Letters Patent and the accessory Order in Council of 27 March, 1905, were revoked before they came into operation.

I.—(1) There shall be a Legislative Assembly in the Colony, consisting of the Lieutenant-Governor and of not less than six nor more than nine official members, and, save as hereinafter provided, of not less than thirty nor more than thirty-five elected members.

(2) The official members shall be such persons holding office under the Government of the Colony, and being members of the Executive Council as We may from time to time appoint by any Instruction or Warrant under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

(3) The elected members shall be persons chosen by the voters in districts constituted as hereinafter provided.

II. The official members shall hold office during Our pleasure. . . .

VIII. The Lieutenant-Governor shall attend and preside at all meetings of the Legislative Assembly, unless when prevented by illness or grave cause, and, in his absence, such member of the said Assembly as he may appoint; and in default of such appointment, the senior member of the Executive Council present shall preside.

IX. It shall be lawful for the Legislative Assembly, subject to the provisions of these Our Letters Patent, to make Laws required for the peace, order, and good government of the Colony.

X. When any Law has been passed by the Legislative Assembly, it shall be presented for Our assent to the Governor, who shall declare, according to his discretion, but subject, nevertheless, to the provisions of these Our Letters Patent, and to such instructions as may from time to time be given in that behalf by Us, Our heirs or successors, that he assents to such Law, or that he reserves it for the signification of Our pleasure thereon. A Law assented to by the Governor shall come into



operation upon the day of its publication in the Transvaal Government Gazette, unless it be otherwise Provided in the said Law: Provided always that it shall be lawful for the Governor, before declaring his pleasure in regard to any Law, which shall have been so presented to him, to make such amendments therein as he shall think needful or expedient, and by message to return such Law with such amendments to the Assembly, and the consideration of such amendments by the said Assembly shall take place in such convenient manner as shall in and by any Rules and Orders be in that behalf provided. . . .

Powers of  
legislation,  
etc., re-  
served to  
the Crown.

XIX. We do hereby reserve to Ourselves, Our heirs and successors, Our and Their undoubted right with the advice of Our or Their Privy Council, from time to time, to make all such laws as may appear to Us or Them necessary for the peace, order, and good government of the Colony.

# LXI. EXTRACT FROM THE KING'S SPEECH IN PARLIAMENT, 19 February, 1906.

[Hansard, Fourth Series, Vol. 152, col. 22.]

MY LORDS AND GENTLEMEN,

. . . In order to establish responsible government in the Transvaal Colony, I have decided to recall the Letters Patent which provided for the intermediate stage of representative government, and to direct that the new Constitution be drawn up with as much expedition as is consistent with due care and deliberation in all particulars. The elections to the first Legislative Assembly, which had been expected in July, must accordingly be postponed, but it is not anticipated that the additional delay need extend beyond a few months. The directions which have been given that no further licences should be issued for the importation of Chinese

coolies will continue in force during that period. A Constitution granting responsible government will also be framed for the Orange River Colony. It is my earnest hope that in these Colonies, as elsewhere throughout my dominions, the grant of free institutions will be followed by an increase of prosperity and of loyalty to the Empire. . . .

LXII. CUSTOMS UNION CONVENTION AGREED TO AT  
THE CONFERENCE HELD AT PIETERMARITZBURG,  
March, 1906.

[Parl. Pap., Cd. 2977.]

The differences between the provisions of this Convention and the Convention of 1903, which it superseded, are indicated in foot-notes.

His Excellency the Governor of the Colony of the Cape of Good Hope, his Excellency the Governor of the Colony of Natal, his Excellency the Governor of the Orange River Colony and the Transvaal, and his Honour the Administrator of Southern Rhodesia, mutually on behalf of their respective Governments, admitting that each Colony and Territory is entitled to the Customs Duties collected on goods imported for consumption therein through any of the said Colonies or Territory, and that it is desirable that there should be a general Customs Union between all the Colonies and Territories of South Africa, have agreed on behalf of their respective Governments upon the following articles:—

ART. 1.—The Customs Union Convention entered into in the year 1903 shall be superseded by this present Convention, provided however:—

(a) That the supersession of the said Convention shall not affect the validity of the Schedules thereto, whereby Basutoland, the Bechuanaland Protectorate, Swaziland and Barotseland (North-Western Rhodesia) were admitted to the Customs Union, which Schedules

as altered by the said Convention are to be regarded as embodied herein and which are for reference set forth as Schedules A, B, C, and D hereto, this Convention and its corresponding Articles being deemed to be in the said Schedules referred to in place of the superseded Convention and its Articles of similar import.<sup>1</sup>

(b) That whenever in either of the said Schedules mutual agreement or joint assent is required, the agreement or assent of the Governments of the Cape Colony, Natal, and Orange River Colony, the Transvaal, and Southern Rhodesia shall be deemed to be necessary.

(c) That the Convention of 1903, entered into as aforesaid, together with the Schedules thereto, shall, as between all the parties thereto, continue to be of binding force and effect until a date not later than the 30 June, 1906.<sup>2</sup>

(d) That all the accounts or other matters outstanding between any parties to the said Convention shall, notwithstanding its supersession by this present Convention, be settled and determined under the aforesaid Convention, together with the Schedules thereto.

(e) That this Convention shall on a date to be mutually agreed upon be laid before the Legislatures of the Colonies and Territory being parties thereto for ratification and approval. In the event of the Legislature of any such Colony or Territory failing to ratify this Convention, it shall be open to the other parties thereto to maintain the Convention in full force and effect as

<sup>1</sup> Basutoland was admitted to the Customs Union originally comprising Cape Colony and the Orange Free State, 1 July, 1891; the Bechuanaland Protectorate was admitted, 1 July, 1892; Swaziland was admitted at the Bloemfontein Customs Conference, 11 October, 1904, and Barotseland on 1 December, 1905.

<sup>2</sup> In the 1903 Convention [Article I. (c)], it was agreed that the previous Convention of 1898 should continue in effect until a date mutually agreed upon after the new agreement had been signed and ratified.

between themselves, notwithstanding the retirement of such party as aforesaid.<sup>1</sup>

ART. II.—The following and none other shall, subject to the provisions of any subsequent Article of this Convention, be the Customs Duties upon goods imported into any place within the Union, and the Government of each Colony or Territory within the Union shall levy and collect within its jurisdiction the said Duties upon all goods so imported from outside the limits of the Union.

[Here follows a detailed Customs Tariff.]

ART. III.—A rebate of Customs Duties shall be granted on any goods and articles, the growth, produce or manufacture of the United Kingdom, imported therefrom into the Union for consumption therein to the extent following:—

(a) [In case of goods charged at special rates, a special rebate fixed for each article.]

(b) [Otherwise, a rebate of three per cent. *ad valorem*.]

[In case of dispute, the Minister or Executive Officer in charge of Customs shall give final decision.]

ART. IV.—[A similar rebate to be granted to goods and articles produced by any British Colony, Protectorate or Possession granting reciprocal privileges at a date to be agreed on in each particular case.]

ART. V.—Every contracting party to the Convention shall, subject to the provisions of the Articles of this Convention, collect the Customs Duties payable upon all goods imported within its borders from outside the limits of the Union for removal from the collecting Colony or Territory into any other part of the Union, and recover for and pay over to the Government of the

<sup>1</sup> No corresponding section in 1903 Convention; provision for ratification implied in the latter part of section (c).

Colony or Territory into which the goods are so removed for consumption, the duties so collected by it on such goods subject to a deduction of five per cent. of the duty collected.<sup>1</sup>

ART. VI.—The importation of all goods upon which the Customs duties must be paid over by any one party to any other party to the Union, shall be subject to such regulations as may be mutually agreed upon.

ART. VII.—Every Colony and Territory belonging to the Union shall be at liberty to pass through any part thereof, under such regulations as may be agreed upon, goods intended for consumption outside the Union duty free, or at such rate as the interests of the forwarding Colony or Territory may demand.

ART. VIII.—All accounts as between the parties to the Union shall be made up to the end of each month, and all such accounts shall be settled within one month thereafter, subject to any subsequent adjustment which may be found necessary.

ART. IX.—The introduction of prison and penitentiary made goods into the Union is prohibited, so also is the introduction of opium, except for medicinal purposes, under such regulations as may be mutually agreed upon.<sup>2</sup>

The importation of any other article may be by law prohibited in any of the said Colonies or Territory.

Articles, the importation whereof is prohibited in any of the said Colonies, or in the said Territory shall be allowed to pass through the prohibiting Colony or Territory to any other Colony or Territory within the

<sup>1</sup> In the 1903 Convention, Article V. provides for a special duty on sugar from a country not a party to the Brussels Convention for the abolition of Sugar Bounties.

<sup>2</sup> The first section of Article IX. is not included in the Convention of 1903.



Union not so prohibiting, subject to payment of the Customs Duty (if any) imposed under this Convention.

ART. X.—Notwithstanding anything to the contrary contained in this Convention, but subject to the provisions of Article IX., every Colony or Territory belonging to the Union shall permit goods imported thereinto from any place beyond the limits of the Union to be removed under bond without payment of duty, subject however to the Customs Laws in force in such first mentioned Colony or Territory with regard to the removal of goods in bond, and subject to such regulations with regard thereto as may be mutually agreed upon.

ART. XI.—[Rebates or refunds in respect of duties shall only be made where

(a) duty has been paid in excess or in error ;

(b) the Articles of this Convention provide ;

or (c) a mutual agreement is arrived at.]

ART. XII. [Any party to the Convention may suspend wholly or in part the collection of duties on meat and animals for slaughter within its own territory, and may itself remove such suspension.]<sup>1</sup>

ART. XIII.—It shall be permitted to the Territory of Southern Rhodesia to grant, upon all goods and articles, the growth, produce and manufacture of any part of His Majesty's Dominions or of any British Protectorate a rebate of the Customs Duties payable under the foregoing tariff, equal in amount to the difference between the said duties payable, as aforesaid, and the highest duties which it is permissible to the said Territory to impose under Clause 47 of the Southern Rhodesia Order in Council, 1898.

<sup>1</sup>By Article XIII. of the 1903 Convention, these duties remained suspended until a majority of the contracting parties removed the suspension.

ART. XIV.<sup>1</sup>—[Southern Rhodesia may make special suspensions of the duties on candles, preserved milk, fish, preserved meat and oils, not essential or perfumed.]

ART. XV.<sup>2</sup>—[The Colony or Territory rebating or suspending any duties shall be responsible for recovering the amount of such duty if the goods are removed to another part of the Union.]

ART. XVI.—[Regulations regarding the Customs duties and excises levied on beer and spirits. The former not to exceed the excise on the articles imported from without the Union.]

ARTS. XVII<sup>3</sup> and XVIII.—[Similar regulations regarding methylated spirits; but duties on this and on alcohol or soap for industrial purposes may be rebated by any party to the Union.]

ART. XIX.—[Any Colony or Territory may allow an abatement on articles imported for the Regular Army and on wines, etc., imported for the use of the Governor or other head of the Executive.]

ART. XX.—[The current value of any goods in the open market is to be taken in estimating the *ad valorem* duty on such goods at any place.]

ART. XXI.—Wherever in any of the Articles of this Convention mutual agreement or assent is referred to, the agreement or assent of the Governments of the Cape Colony, Natal, the Orange River Colony, the Trans-

<sup>1</sup> These Articles are not contained in the 1903 Convention.

<sup>2</sup> In the 1903 Convention, Article XV. provides that any Colony or Territory may suspend the whole or part of the duties on corn or grain imported for consumption in such Colony or Territory and that Southern Rhodesia may do so in regard to numerous other articles. The Government must provide a bounty on similar goods imported from another part of the Union for consumption while such suspension is effective. This bounty is to be equivalent to the duty suspended. Southern Rhodesia shall not, however, pay bounties until two years have elapsed.

<sup>3</sup> No Article corresponding to Article XVII. in 1903 Convention.

vaal, and Southern Rhodesia shall alone be deemed and taken to be intended; and wherever the decision of a majority is referred to, it shall be deemed to mean a majority of the Governments of such Colonies and Territory.

ART. XXII.—Nothing herein contained shall be deemed or taken to prohibit the Transvaal from allowing the importation free of duty into that Colony of any goods and articles, excepting spirits, the growth, produce or manufacture of the Portuguese Province of Mozambique or of British Central Africa, provided that this Article shall only apply to those products and manufactures, the elements or chief constituent parts of which are the products of the soil of the countries in question.

ART. XXIII.—The provisions of this Convention shall continue in force from the date of the coming into operation of this Convention and thereafter: provided however, that it shall be open for any party to this Convention to give twelve months' notice to all the other contracting parties of its wish to amend the terms of this Convention, or to retire therefrom, such notice to be given prior to the 30th June of any one year and to expire on the 30th June of the next succeeding year.<sup>1</sup>

ART. XXIV.—Upon receipt of the notice as provided in Article 23 of the desire of any party to this Convention to amend the terms thereof, the High Commissioner shall summon a Conference of the contracting parties to consider proposed amendments to this Convention, such Conference to meet not more than four months prior to the expiration of the notice as provided.<sup>2</sup>

<sup>1</sup> The 1903 Convention was to last for two years and thereafter for at least twelve months from the date of notice given by any party of its intention to retire from it. This notice was to take effect on June 30 following the expiration of the twelve months aforesaid. Within one month of receiving such notice any other party to the Convention might also withdraw.

<sup>2</sup> No corresponding provision is contained in the 1903 Convention.

ART. XXV.—It shall be competent at any time during the existence of the Union for any other Colony, Territory, or State of South or Central Africa having a civilised Government to apply to be included as a party thereto, and upon all the parties to this Convention signifying their joint assent to such admission and mutually agreeing to the terms and date of such admission, such Colony, Territory or State shall be admitted, provided that it pass the requisite legislation to give effect to the terms of such admission.

ART. XXVI.—No amendment or addition to this Convention shall be made without the unanimous consent of the contracting parties hereto, but any difference of opinion with reference only to the true construction of any item of the foregoing tariff shall be determined by the decision of the majority of the Governments of such contracting parties, provided that no Government shall be deemed to be hereby bound to accept a construction of any item of the said tariff which is in conflict with any judicial decision binding upon such Government.

ART. XXVII.—[The removal from one State in the Union to another of Union tobacco containing imported materials shall involve the giving of 95 per cent. credit by the forwarding State on the duty originally collected on the imported materials.]<sup>1</sup>

LXIII. RULING IN TRANSVAAL LEGISLATIVE COUNCIL  
CONCERNING AMENDMENT OF CUSTOMS CONVEN-  
TION, 28 June, 1906.

[Parl. Pap., Cd. 3564, p. 63.]

In the Legislative Council of the Transvaal . . . in Committee on the Customs Amendment Draft Ordinance, 1906 . . . a ruling was asked for by the Colonial

<sup>1</sup> See note to Art. XXIV.

Secretary as to whether it was possible for members to move amendments contrary to the terms of the Convention, whereupon the Chairman gave the following ruling, viz. :—

“That the terms of the Clause appeared to be exactly the terms which are contained in Article 12 of the Convention and therefore it is not competent for any member to move an Amendment to this Ordinance which would substantially alter any of the terms of the Convention which has already been ratified and approved.”<sup>1</sup>

LXIV. THE RIGHT HON. EARL OF ELGIN, SECRETARY OF STATE FOR THE COLONIES, TO THE EARL OF SELBORNE, GOVERNOR OF THE TRANSVAAL, INFORMING HIM OF THE APPROACHING GRANT OF RESPONSIBLE GOVERNMENT, 31 July, 1906.

[Parl. Pap., Cd. 3250, p. 39.]

TELEGRAM.

(July 31. No. 1.)

His Majesty's Government felt it their duty in February to advise His Majesty that the Letters Patent of the 31st March, 1905, should be withdrawn, and that the Transvaal should receive the gift of Responsible Government so soon as sufficient information had been collected, by the despatch of a Committee to South Africa and otherwise, to enable them to recommend to His Majesty with confidence the bases and provisions upon which self-government might be securely established. Letters Patent will duly issue in their final form, but as His Majesty's Government recognise that great anxiety prevails on this subject, they have resolved

<sup>1</sup> It is believed that there are precedents in the House of Commons in support of the ruling given by the Chairman of Committees quoted above, though not in cases of bills imposing taxation.



to declare to Parliament before the adjournment their determination to certain leading principles and conditions which will hereafter be incorporated in the Letters Patent.

Representation will be on a voter's basis, coupled with manhood suffrage and a residential qualification of six months. The military vote will be excluded. The existing Magisterial districts will be retained, but will be divided where necessary into single-member constituencies, the division following as far as possible the boundaries of the field cornetcies.

It has been found impossible to use the voter's roll prepared under the Order in Council of 1905 for the distribution of seats owing to doubts, in which you concur, as to whether the roll now correctly represents the number and distribution of the voters, and the revision would occupy at least six months. This delay would have been prejudicial to many interests, and His Majesty's Government have resolved to use the figures of the last census for this purpose. On this basis thirty-four seats may be allotted to the Rand (including therein Krugersdorp (Rural), which territorially belongs to it), six to Pretoria, and twenty-nine to the rest of the country. This distribution follows closely the arithmetical proportions, except that, in view of the increase of population since the census on the Rand, one seat beyond the strict proportion is given to that district. Provision will be made for automatic redistribution, and for the election of a new Assembly after every five years. Members will be entitled to address the House either in English or in Dutch.

Having regard to the interpretation generally placed upon the Vereeniging terms, the exercise of the franchise must be confined to white British subjects. In the meantime, and pending any grant of representation to natives after establishment of Responsible Govern-

ment, no native territory now administered by the Governor or High Commissioner will be placed under the control of the new Responsible Government, and Swaziland, like other native territories now administered by the High Commissioner, will be under the direct control of the Crown.

Provision will also be made for safeguarding the general interests of the natives, for instance, that lands reserved for natives shall not be alienated without legislation which will be reserved.

The Letters Patent will provide for the reservation of any Bill whereby persons not of European birth or descent may be subjected to any disability or restriction to which persons of European birth are not also subjected, and no law sanctioning any condition of service or residence of a servile character will be assented to. As announced earlier in the Session, a clause will be introduced to terminate the present Ordinance for the importation of Chinese coolies.

Following the precedent of other Colonies, there will be a second Chamber, and His Majesty's Government are of opinion that it ought, in its permanent form, to be elective, and to follow generally the model of the Cape Legislative Council. But to facilitate arrangements they propose to constitute it, for the first Parliament only, by nomination, reserving to the Crown the right of nomination.

Provisions will be necessary for the reconstitution of the Inter-Colonial Council after a reasonable interval to meet the requirements of the new situation—for a Civil List, for payment of members, and for land settlement.

LXV. THE EARL OF ELGIN TO THE EARL OF SELBORNE, GOVERNOR OF THE TRANSVAAL, INFORMING HIM OF THE DESPATCH OF LETTERS PATENT, 10 December, 1906.

[Parl. Pap., Cd. 3250, p. 40.]

TELEGRAM.

(December 10. No. 4.)

Referring to my telegram No. 1 of the 31st July, the Letters Patent granting Responsible Government to the Transvaal and carrying into effect the declarations made by His Majesty's Government as to the advice they would tender to the Crown, have now been approved by His Majesty. Full information regarding the text of the instrument will be in your hands on the 13th instant, and will be published by you without delay. Publication will take place in this country on the 12th instant.

The instrument itself passed the Great Seal on the 6th instant, and has been despatched by the mail of the 8th.

In announcing to you the transmission of this instrument for promulgation, I am commanded by the King to express through you to the people of the Transvaal his earnest wishes for the peace and prosperity of the country under the new Constitution.

I desire to add on behalf of His Majesty's Government that they have advised His Majesty to grant immediate Responsible Government to the Transvaal, in full confidence that under the free institutions established by this Constitution the prosperity and contentment of the Transvaal and its people will be permanently secured, and with the hope that the steps now taken will in due time lead to the union of the interests of the whole of His Majesty's dominions in South Africa.

LXVI. THE EARL OF ELGIN TO THE EARL OF SELBORNE, GOVERNOR OF THE ORANGE RIVER COLONY, INFORMING HIM OF THE APPROACHING GRANT OF RESPONSIBLE GOVERNMENT, 17 December, 1906.

[Parl. Pap., Cd. 3526, p. 47.]

TELEGRAM.

(December 17. No. 1.)

His Majesty's Government have throughout been anxious that no unnecessary delay should take place in the accomplishment of the declared purpose of His Majesty to confer Responsible Government upon the Orange River Colony; and they are now able to announce that the main bases and provisions of the Constitution as granted to the Transvaal shall equally apply in the case of the older sister Colony, and they will therefore advise His Majesty to issue Letters Patent for the Orange River Colony following in its substantial features the Transvaal Letters Patent of the 6th instant.

Representation will be on voters basis, coupled with manhood suffrage and a residential qualification of six months.

The magisterial districts will be retained with their existing boundaries for electoral purposes, and there will be separate representation of towns.

The Legislative Assembly will consist of 38 members, comprising 27 district members and 11 town members. . . .

The allocation of seats has been made on the results of the Census of 1904, except that five members are allotted to Bloemfontein town to allow for an increase of population. The principle followed is similar to that laid down in the case of the Transvaal in Schedule 3 of the Letters Patent.

Provision will be made for automatic redistribution.

The Legislative Council will consist of 11 members,

and will be constituted in the first instance by nomination, as in the case of the Transvaal.

The provisions with respect to the Intercolonial Council and land settlement and reservation of laws on certain subjects will be similar to those in the Transvaal Letters Patent.—ELGIN.

LXVII. PAPERS RELATING TO THE PROPOSED FEDERATION OF THE SOUTH AFRICAN COLONIES. TRANSMITTED BY THE EARL OF SELBORNE, HIGH COMMISSIONER FOR SOUTH AFRICA, TO THE EARL OF ELGIN, SECRETARY OF STATE FOR THE COLONIES, 7 January, 1907.

[Parl. Pap., Cd. 3564.]

(a) MINUTE OF MINISTERS OF CAPE COLONY. TRANSMITTED BY GOVERNOR SIR WALTER HELY-HUTCHINSON TO THE HIGH COMMISSIONER, 29 November, 1906.

[Parl. Pap., Cd. 3564, pp. 4-5.]

(Minute.)

PRIME MINISTER'S OFFICE,  
CAPE TOWN, 28 November, 1906.

In view of the Conference on railway matters to be held between the various Governments of South Africa within the next 12 months, Ministers have the honour to inform His Excellency the Governor that, in their opinion, any serious attempt on the part of the several British Colonies to accomplish a settlement of this question brings them to the border line of the larger question of political unification or federation, a subject which has engaged the earnest consideration of this Government, and, they are happy to think, is receiving increasing attention on the part of the people of South Africa.

Speaking from the experience of the past three years, which covers a period unique in the history of South African administration, owing to the extension of British



authority to the two central Colonies, Ministers are impressed by the number of matters affecting the interests of the Colonies which could not be settled by them, except with the concurrence of one or more of the other South African Governments. The discussion of such points has, in almost every case, absorbed an undue proportion of the time and energy of the Administration, while it has proved impossible to arrive at any complete and lasting settlement of some of the more important questions. The absence of an authority competent to dispose of questions in which two or more Colonies are involved and the time which the several Governments waste in attempting to negotiate settlements is, in their opinion, operating to retard the free development of the country generally. The state of friction which has at times existed, and in their opinion must constantly recur, so long as the present conditions remain unaltered, impairs the good relations of the various South African communities and tends to excite a feeling of mutual distrust, which renders increasingly difficult the settlement of disputes between them. This state of affairs they attribute to the inadequacy of the present system of administration to meet the increasingly complex conditions of the country, which should be capable of settlement by some duly constituted South African authority responsible to all parties in the country.

Ministers doubt whether any solution of the railway problem which may be suggested at the forthcoming Conference can be final or effective unless it is based on a re-consideration of the system of administration now existing in South Africa. They can only state the position as it appears from the point of view of the people of Cape Colony. Other Governments are similarly limited to the point of view of the respective Colonies they represent. The fact that so many questions have to be settled by negotiations between the

various Governments has in many cases rendered it impossible to make information on these matters public. For these reasons, Ministers feel that the present situation is such as to render it difficult for the people of the various communities to understand the present situation of affairs or to view problems common to all the States as a whole.

Ministers recommend, therefore, that the Governor be pleased to submit these representations to Lord Selborne, with an expression of their desire and hope that, in his capacity of High Commissioner for South Africa, he will undertake to review the situation in such a manner that the public may be informed as to the general position of affairs throughout the country. Their object in urging this course being that they consider it due to the people of South Africa that they should have a timely opportunity of expressing a voice upon the desirability, and, if acknowledged, the best means, of bringing about a central national Government embracing all the Colonies and Protectorates under British South African administration.

L. S. JAMESON.

(b) THE HIGH COMMISSIONER TO SIR HENRY MCCALLUM,  
GOVERNOR OF NATAL, 21 December, 1906.

[Parl. Pap., Cd. 3564, p. 9.]

HIGH COMMISSIONER'S OFFICE,  
JOHANNESBURG, 21 December, 1906.

I have the honour to transmit to you a copy of a despatch from the Governor of Cape Colony, enclosing a Minute from his Ministers, in which they call upon me, as High Commissioner, to review the general situation in South Africa, in such a manner as may enable the people of this country to appreciate the difficulties of administration under the present system and to consider whether, and, if so, by what means, it is advisable

to establish a central national government embracing all the British Colonies and Protectorates.

2. I shall be glad to receive an expression of the views of the Natal Government in regard to the representations made in the Cape Ministers' Minute.

[Similar despatches were addressed to the Lieutenant-Governors of the Transvaal and Orange River Colonies and the Administrator of Southern Rhodesia.]

(c) REPLY OF SIR HENRY MCCALLUM TO THE HIGH COMMISSIONER, 29 December, 1906.

[Parl. Pap., Cd. 3564, p. 10.]

GOVERNMENT HOUSE, PIETERMARITZBURG,  
NATAL, 29 December, 1906.

With reference to your despatch of the 21st instant, transmitting copy of correspondence with the Government of the Cape Colony regarding the desirability of political and administrative unification or federation of the British South African Colonies, I have the honour to inform you that my Ministers concur in the recommendation of Cape Ministers as contained in the last paragraph of Dr. Jameson's Minute of the 28th November.

(d) RESOLUTION OF THE EXECUTIVE COUNCIL OF THE TRANSVAAL.

Transmitted by the Acting Lieutenant-Governor to the High Commissioner, 27 December, 1906.

[Parl. Pap., Cd. 3564, pp. 10-11.]

Considered a minute from the Governor of the Cape of Good Hope, transmitted through the High Commissioner, on the question of inter-Colonial relations.

Resolved that a reply be sent to His Excellency the High Commissioner in the following terms:—

“This Government willingly associates itself with the views expressed by the Government of the Cape of Good Hope in their Minute to the Governor, No. 1/816,

of 28th November. The experience of past Conferences in regard to railway questions and other matters affecting the inter-Colonial relations has demonstrated beyond doubt that no permanent solution of these questions can be reached by such means, and, indeed, every such Conference leaves behind it an undiminished number of sources of disagreement and friction.

“As regards other questions of South African interest, Council is aware that opinions have been expressed that the Transvaal should not enter into practical consideration of the question of union with other South African Colonies till some settlement of these questions has been reached inside its own borders. Council, however, while fully realising that on an issue of such importance, they cannot pledge or even speak for the new Government which is about to be established in the Colony, think themselves entitled to express the opinion which they have formed on their own experience of administering the affairs of the Colony, viz., that no permanent settlement can be reached by this Colony alone of questions (such as, e.g. the question of native policy) which are in reality common to the whole of South Africa, and that until some Constitutional machinery has been created by which the people of South Africa as a whole can deal with questions vitally affecting their common interests, it is useless for any one Colony to attempt to solve them inside its own borders.

“A settlement of the railway difficulties referred to by the Cape Ministers is urgent and cannot be delayed. Other questions may cause less immediate and visible friction, but delay in settling them on a South African basis is none the less dangerous. Council, therefore, desire to unite with the Cape Government in asking His Excellency the High Commissioner for an expression of his views in regard to the causes and con-

sequences of the present position of the British South African Colonies in relation to each other, so that the people in whose hands any attempt to find a remedy must lie may have before them a statement of the case from the only authority in South Africa which can claim to stand impartially outside the different political members into which it is at present divided."

- (e) REPLY OF SIR H. GOOLD-ADAMS, LIEUTENANT-GOVERNOR OF THE ORANGE RIVER COLONY, TO THE HIGH COMMISSIONER, 24 December, 1906.

[Parl. Pap., Cd. 3564, p.11.]

The suggestion of the Cape Ministers has been considered by the members of this Government who, while entirely agreeing with them as to the existing unsatisfactory condition of inter-Colonial relationship, and the gravity of situations often created thereby and as to the necessity of bringing those facts now prominently to the attention of the people of the various communities of South Africa, are of the opinion that Your Excellency, in deciding how far the suggestion of the Cape Ministers can be given effect to by yourself, should principally be guided in the present circumstances by the views of those Colonies in possession of full Responsible Government.

- (f) REPLY OF THE ADMINISTRATOR OF SOUTHERN RHODESIA TO THE HIGH COMMISSIONER, 29 December, 1906.

[Parl. Pap., Cd. 3564, pp. 11-12.]

I have the honour to inform Your Excellency that this Administration is unable at this stage to commit itself to any conclusive opinion upon the main question, which would involve issues of considerable intricacy. It desires, however, to express its full concurrence in the request of the Cape Government that Your Excellency should undertake the task of reviewing the situation generally,



in order that the people of the country may be informed as to the general position in South Africa.

[Signed] W. H. MILTON,  
Administrator.

(g) THE HIGH COMMISSIONER TO THE GOVERNOR OF CAPE COLONY.

[Parl. Pap., Cd. 3564, pp. 5-9.]

HIGH COMMISSIONER'S OFFICE,  
JOHANNESBURG, 7 *January*, 1907.

SIR,

On the receipt of your despatch of the 29th November, I communicated it, with the enclosed minute from your Ministers, to the Governments of the other British Colonies in South Africa. I enclose copies of my communication to the other Governments, and of the despatches received from them in reply.<sup>1</sup> . . .

To review the present situation in South Africa in such a manner that the public may be informed as to the general position of affairs throughout the country is a task which I should never have undertaken had I not been requested to do so by those who have a right to demand my services—the Ministers of the responsible governing Colonies of Cape Colony and Natal. It is my dearest conviction that no healthy movement towards federation can emanate from any authority other than the people of South Africa themselves; but, when I am called upon by those occupying the most representative and responsible positions in the country to furnish such material as is in my possession, for the information of the people of South Africa, it is clearly my duty to comply with the request.

The people of Cape Colony are, in respect of the strictly internal affairs of Cape Colony, in the enjoyment of as complete self-government as any free people in

<sup>1</sup> See above, Nos. LXVII., *b*, *c*, *d*, *e*, *f*.

the world. This is equally true of the people of Natal, and will presently be equally true of the people of the Transvaal and of the Orange River Colony, in each case in respect of the strictly internal affairs of their Colony. But in respect of the strictly internal affairs of South Africa, the people of South Africa are not self-governing. They are not self-governing in respect of South African affairs because they have no South African Government with which to govern.

In the nature of things, constant divergencies of opinion and of interest arise between the Governments of the Cape Colony, of Natal, of the Orange River Colony, and of the Transvaal. How can those divergencies of opinion and of interest be settled? At present they are settled through the High Commissioner, not, of course, by the High Commissioner. He simply represents the central organisation in which the divergencies of opinion or of interest are focussed, and he acts as the servant of the different Colonies in endeavouring to facilitate arrangements and accommodations among themselves. The High Commissioner, however, is not an independent authority. His action is subject to the control of the Secretary of State for the Colonies in Westminster, who, in his turn, is a member of a Government subject to the control of the Imperial Parliament. As things, therefore, are at present, in extreme cases of divergence of opinion or interest between the British South African Colonies, even in respect of affairs which are strictly the internal affairs of South Africa, the ultimate authority is the Imperial Parliament at Westminster.

It is as a remedy to this system that the minds of men in South Africa are turning to some form of union between the British South African Colonies. True it is that there is another alternative; but it is one which has only to be cited to be rejected. Those Colonies

might develop into States as independent of each other as the States of Europe, which, in case of acute divergencies of opinion or of interest, have but two methods of settlement open to them—arbitration or the sword.

Three choices, therefore, lie before the people of South Africa, the make-shift régime of the High Commissioner, the jarring separatism of the States of South America, the noble union of the States of North America.

Of all the questions fruitful in divergence of opinion or of interest to the Colonies of South Africa, there is none so pregnant with danger as the railway question. It is not an exaggeration to say that a field more thickly sown with the seed of future quarrel and strife than the railway systems of South Africa does not exist. As long as the Governments of the five British Colonies in South Africa are wholly separated from, and independent of, each other, their railway interests are not only distinct but absolutely incompatible. There is a competitive struggle between the ports of Cape Colony and of Natal to snatch from each other every ton of goods which can be snatched. The Orange River Colony desires as many tons of goods as possible to be passed to the Transvaal through its territory, but it is to the interest of Cape Colony that no such tons of goods should pass into the Transvaal through the Orange River Colony. On every ton which, on its way to the Transvaal, passes into the Orange River Colony at Norval's Pont, the Cape Colony loses revenue compared with what she would receive if it passed into the Transvaal by the Kimberley-Fourteen Streams-Klerksdorp line. In the same way it is to the interest of Natal to pass the goods consigned to the Transvaal from Durban into the Transvaal at Volksrust, and not at Vereeniging through the Orange River Colony. Thus the interests of Cape Colony, of Natal, and of the

Orange River Colony conflict the one with the other. But when it comes to considering the railway interests of the Transvaal, then it will be found that the interest of the Transvaal is diametrically opposed to the interests of Cape Colony, of Natal, and of the Orange River Colony. The Transvaal loses revenue on every ton of goods which enters the Transvaal by any other route than that from Delagoa Bay. This has been so from the day when that line was opened to Pretoria. It was this fact which made President Kruger close the drifts in 1895. And the position to-day is exactly what the position was then. If the Transvaal were as indifferent to the welfare of the three sister Colonies as every State in Europe is to the welfare of every other State, the Transvaal would see that all the trade to the Transvaal came exclusively through Delagoa Bay. And what then would be the position of the railways and the finances of the three sister Colonies and of the ports of Cape Colony and of Natal?

This divergence, this conflict of railway interests, this cloud of future strife, would vanish like a foul mist before the sun of South African Federation, but no other force can dissipate it. There would no longer be a conflict of interests between the railway systems of Natal, of Cape Colony, and of the Orange River Colony. Nor would it any longer be to the interest of the Transvaal to lean exclusively towards Delagoa Bay. The wealth of the Transvaal would be used, not in enriching a foreign port and a foreign country, but in building up a great white population in the British ports of British South Africa with interests identical with her own.

If the possibility of railway rates being made a weapon of international strife is a danger, what would be the danger of Customs war between the British South African Colonies? Imagine each of them with a separate

tariff framed expressly with the object of fostering the trade of one Colony to the detriment of the trade of its neighbour! Imagine each Colony ringed round with a barrier of internal Customs Houses! The result would be the destruction of commercial stability, the stagnation of industrial enterprise, the creation of a permanent depression. The sun of progress would go back ten degrees on the dial of South Africa. She would revert, and revert deliberately, to the helpless impotence for national advance to which the thirteen States of America were condemned before the Union, and the Kingdoms, Duchies, and Principalities of Germany before the creation of the German Empire. What a prospect of mutual heartburning and bitterness does not the contemplation of such a catastrophe present! Yet the danger will be imminent unless the Colonies take another step forward towards Union. Can they stand still on the compromise embodied in the present Customs Convention? That Convention does not represent a South African Customs policy; it is a compromise between five Colonial Customs policies, almost universally disliked, tolerated only because men shrink aghast from the consequences of a disruption of the Convention. The only path of safety is a forward path to a South African tariff, based on the deliberate policy of the South African people, affording permanent free trade to all South Africans within South Africa, offering a stable basis of investment to industry and commerce.

There are five systems of law and five organisations for defence. The expense is at the maximum; the return is at the minimum. South Africans of every Colony are justly proud of their system of jurisprudence, and the standard of the Magistracy and of the Bench is second to none in the Empire. But there is no South African Court of Appeal, and so no harmonising co-ordination of all South African Law. In default of such



a Court of Appeal, the tendency must be towards discordance of legal interpretation with added obstacles and instability to industry and commerce. The Police, Militia, and Volunteers of South Africa are renowned for their efficiency. In the aggregate they represent a formidable power, but, if a crisis were to arise, there is no machinery whatever for applying that power instantly, and in overwhelming force at the point of danger.

The two great industries of South Africa are agriculture and the mines. In respect of both alike, South Africa is unable to apply all her resources to their development. No race of farmers in the world have more natural difficulties to contend with than those of South Africa. Scab, rinderpest, East African coast fever, locusts, are each in their degree a constant menace to the farmer. The plagues of nature know no artificial boundaries between Colonies, and are impartial in their visitations; the farmers, however, in their warfare against these plagues, are heavily handicapped by the multiplicity of authorities. In respect of the diseases of animals, five Agricultural Departments formulate their own systems of prevention, and each co-operates with the corresponding Department of the other Colonies on the basis only of mutual good sense and feeling. Any misunderstanding, which resulted in want of co-operation might result in a new disease being let loose on a Colony. Imagine the despair of the farmer in the Transvaal, who has successfully destroyed each swarm of locusts that has hatched upon his farm, when he sees fresh swarms of locusts appearing from a neighbouring Colony where the same process of destruction has not been accomplished. Or is it wonderful that the farmers of the Transvaal, of the Orange River Colony, and of Cape Colony alike say, "What is the use of our destroying all the swarms of locusts which are hatched upon our farms

when countless myriads, which have been hatched in the Bechuanaland Protectorate, are sure to invade them?" If one South African authority, exercising undisputed powers from the Cape of Good Hope to the Zambesi, were to carry out one consistent policy in support of the farmers, it is probable that, within a few years, not only would dread pests like the East African coast fever have disappeared, but scab might become rare among South African sheep, and the scourge of locusts might have passed into the record of a bad dream.

The prosperity of the mining industry, as of agriculture, depends on an adequate supply of competent labour. There is a large supply of labour in South Africa, though to what extent it is willing to work is not yet finally ascertained. What is certain is that in many cases the demand for labour is situated in one Colony and the supply, which might fulfil that demand, is situated in another. Any attempt to bring the supply and the demand together can only be made by private individuals who are hampered by the existence of different laws regulating labour questions in the Colony of the demand and the Colony of the supply. What proportion the real supply bears to the demand can never be known until there is one authority in South Africa charged with the task of regulating the labour supply as a whole.

But there are questions even more important than these, which, if not settled by the people of South Africa, can only drift to a future fraught with danger for their children. What is going to be the policy of South Africa in respect of the immigration of Asiatics? What is going to be the policy of South Africa towards the coloured people? What towards the natives? Those questions are not for me to answer. They can be answered only by the people of South Africa. But I can point out to the people of South Africa that at the

present moment they are not answering those questions at all. In respect of each branch of these great human problems, the policy of each Colony differs from that of the other. These human beings are not pawns, and, whatever their stage of civilisation, they will think and feel as human beings. How is it possible that either of these three great classes should be permanently contented with the institutions under which they live when those institutions are to them increasingly unintelligible? They know that each of the Colonies in which they live owns allegiance to one King; they know that the white men regard South Africa as one country; but yet, every time one of them passes the unseen boundaries which divide one Colony from another, he finds himself subjected to different treatment, he finds that he is expected to conform to a different set of rules. In his own mind he forms an opinion as to which conditions are most favourable to him and to his friends, and wherever he finds other conditions prevailing, there he becomes increasingly discontented. It cannot be wise that in one part of the common country Asiatics should be admitted into it on different terms, and under different conditions from those which prevail in other parts. It cannot make for the permanent contentment of the Asiatic immigrant if, once he has been admitted, he finds himself subjected to these divergent and contradictory rules.

The coloured man is a son of the soil. In varying degrees he possesses white blood. He is permanently conscious of the fact that the infusion of that blood differentiates him completely from the natives who surround him. He feels that he has a right to a definite place in the social structure of South Africa, and he is embittered by finding that no such place is accorded to him. He has a definite place in each Colony, but, as has already been stated, he is subjected

to different rules in the different Colonies. South Africa, as such, does not recognise him. And he, who ought to be a permanent support to the influence of white rule, is tempted to turn his face backwards to a more sympathetic understanding with that native population from which he is, in so large a part, derived.

If this is the result on Asiatics with their old civilisation, and on coloured people, some of whom have achieved the complete civilisation of white men, it must be equally true of the really educated natives, a very small body compared with the great mass of the South African natives, but a body which has every claim to intelligent consideration, and far more true must it be of that great mass of natives, not yet emerged, or only just emerging, from barbarism, or in every stage of intermediate development. There are many South Africans with a profound knowledge of the native character. As is natural, they contain among them men of many different opinions on the native question; but all agree in declaring that native policy, to be successful, must be consistent and continuous. Folly or injustice may or may not provoke disturbances; but doubt and change in respect of the conditions under which the native lives are almost certain to produce disturbances. All South Africans are agreed that the native question is at once the most important and the most profoundly difficult question which confronts themselves and their children; but, by the perpetuation of five or six totally different native administrations and policies, they are doing all that is in their power to make the question more grave and the problem more difficult.

What South Africa requires more than anything else is stability—stability in political conditions, stability in economic conditions, stability in industrial conditions. Stability alone will enable the farmer securely to reap

where he has sown ; stability alone will give security to the investment of the merchant and the producer ; stability alone will improve credit ; stability alone will tempt the investor back to South Africa. But true stability will remain impossible so long as there are five separate governments in South Africa, each developing a different system in all branches of public life and each a potential antagonist of the other, but no one national government with authority to harmonise the whole.

It is the profound belief of every Cape Colonist that Cape Colony can only be wisely and successfully ruled by a Cape Colony Government chosen from the elected representatives of the people. What is true of the part is true of the whole—South Africa can only be wisely and successfully governed by a South African Government, responsible to a South African Parliament elected by the South African people.

The past of South Africa has been the sport of circumstances because no human authority has existed with both the opportunity and the responsibility of moulding those circumstances to a national purpose. The future of South Africa will be what South Africans deserve.

In order to fulfil to the best of my ability in the limited time at my disposal the request conveyed to me through you by your Ministers, I accepted the co-operation volunteered by some gentlemen who have devoted much study to the investigation of the causes of the difficulties which beset the British South African Administrations, and the memorandum which I enclose with this despatch and which is arranged on the same general plan embodies the result of their labours. To this memorandum I would earnestly invite the attention of all those who feel the grave importance of this question and desire to master it in all its details.

To those who have helped me in this matter I



herewith tender my grateful acknowledgments. I have personally edited their work and thrown it into the form of a memorandum of my own, for which I accept the entire responsibility; the credit, however, for the thought and work which this memorandum represents belongs to them.

I have, etc.,

SELBORNE,

High Commissioner.

His Excellency,

The Governor of Cape Colony,  
Cape Town.

LXVII. (*h*) MEMORANDUM PREPARED BY THE EARL OF SELBORNE  
AT THE REQUEST OF THE GOVERNMENT OF CAPE COLONY,  
1 January, 1907.

Transmitted to the Secretary of State for the Colonies with his  
despatch of 7 January, 1907.

[Parl. Pap., Cd. 3564, pp. 12-61.]

A REVIEW OF THE PRESENT MUTUAL RELATIONS OF THE  
BRITISH SOUTH AFRICAN COLONIES.<sup>1</sup>

## PART I.

### HISTORICAL CAUSE OF SOUTH AFRICAN DISUNION.

No one part of British South Africa is separated from the rest by any great physical barrier. The white population includes two principal races, but all South African States, even Natal and the Orange River Colony, contain a strong infusion of both. When these conditions are compared with those which exist in the United Kingdom and in Canada, it will be seen that too much stress can easily be laid on the division of race and language which separates the British and Dutch in South Africa. The fact that the Irish and French are concentrated in

<sup>1</sup>The numbered footnotes were attached to the Memorandum as circulated. The Editor's notes are marked by an asterisk.

regions apart, the Irish on an island, the French Canadians in the Province of Quebec, checks in those countries that process of fusion which can only be artificially arrested in South Africa. Of the five principal partners in the confederacy of the British Empire, South Africa has in this respect an advantage over the United Kingdom and Canada, though not over Australia and New Zealand. Where two nationalities both Teutonic in origin are so generally mixed together throughout the sub-continent as are the British and the Dutch, in spite of a tendency on the part of the one race to settle in towns and on the part of the other to cling to the country, the fusion between them is merely a matter of time, as it was with the Saxons and Normans, who were related to one another in a similar degree of kinship. How it was that South Africa in the face of natural conditions all pointing to the growth of one nation, came to be parcelled out among five or six separate Governments is a question to which the division of race provides no answer.

To find an explanation it must be remembered that Europe is the centre from which commerce and colonisation have spread for the last four hundred years, and that America, India, and Australia were from the first possessions to be desired in themselves, either for the sake of the wealth they contained or as homes for new European communities. By turning to the map of the British Empire it will be seen that all these countries were the final destination of trade routes. Each of them was from the first moment of its connection with England an end and object in itself. South Africa, on the other hand, was, for many years after its discovery, of interest to Europe merely as the half-way house on the great sea road between the western and eastern halves of the world. The first European race to establish a regular trade with the East was the Portuguese. The

names "Algoa Bay" and "Delagoa Bay" record the fact that they occupied these ports not as possessions valuable in themselves, but as stepping stones on the journey to and from Goa. This was in the 15th Century, and Portugal's interest in the East was soon overshadowed by that of the Dutch East India Company, which established itself at Cape Town in 1652. It is true that the Cape Peninsula was colonised at the instance of the Company by a few hundred Dutch families, to whom the Huguenots afterwards attached themselves, but the object sought by this measure was the production of such fresh provisions as were essential for a port of this nature at a time when ships spent long periods at sea without touching land, and also provision for the defence of the port of call. These families, however, soon took root in the soil, and it is to be noted that their first movement from the Cape Peninsula and the Hex River Valley inland as far as Swellendam and Graaff Reinet was prompted by anxiety to escape from the jurisdiction of the Dutch East India Company.

In the meantime British interests were fast overshadowing the interests of the Netherlands in India, so that the possession of the Cape Peninsula became a matter of the utmost importance to the British fleet. In the wars which followed the French Revolution, Cape Town was taken by the British, ceded, and taken again, and by the peace of 1815, which closed this period of storm, was formally purchased from Holland for £6,000,000. Here, again, the United Kingdom at the moment had no interest in the possession itself other than as a resting place for the fleets passing to and from India, Australia, and the whole East, whether in time of peace or war. The primary motive in colonising the Eastern Province in 1820 with settlers of British nationality was to establish a permanent outpost against the aggression of the native tribes.

The white inhabitants steadily increased and spread themselves far and wide. A European society had taken root in the soil of South Africa, regarding itself not as a stepping-stone to India, but as an end to be considered in itself, and expecting its over-sea rulers to regard it from that point of view. From that time onwards British statesmen regarded South Africa with a divided mind. To them she was first and foremost the key to the Eastern Empire; but she was also a country with political problems of her own, which claimed their attention and involved the United Kingdom from time to time in serious outlay on military expeditions. Had it not been for these interests in the East, it is likely that some of them would have wished to abandon South Africa. As it was, the most ardent opponents of Imperial expansion never dared to suggest that course, and a succession of Secretaries of State persisted in conscientious endeavours to hold the balance between the colonists and the natives to the satisfaction of both. A more invidious or difficult task can hardly be conceived. No doubt the difficulty was increased in some measure by the special circumstance that two white races had taken root in the country. But had there been no such difference, even if there had been no distinction in colour, had the people of South Africa been as purely British in descent as were the inhabitants of New England before the Rebellion, it would have been contrary to all experience gained elsewhere, if the Imperial Government, any more than the Dutch East India Company, could have governed South Africa in accordance with her best interests or to the general contentment of her people without allowing them to regulate their own domestic affairs.

It is a modern axiom of British policy that any attempt to manage the domestic affairs of a white population by a continuous exercise of the direct

authority of the Imperial Parliament, in which the people concerned are not represented, is, save under very special circumstances, a certain path to failure. This, like all great truths, immanent as the law of gravitation in the very nature of things, took long to discover. During the period between 1814 and 1830 the loss of the American Colonies was as yet fresh in the memory of the British people, and colonial independence was regarded with suspicion and disfavour. Their attitude recalls the words of Brabantio to the daughter who had fled from his roof with Othello :—

“I am glad at soul I have no other child :  
For thy escape would teach me tyranny,  
To hang clogs on them.”

Other children remained with the United Kingdom when the American Colonies left her. She did not tyrannise over them, but she clogged their privileges of self-government and denied them rights which the American Colonies before the Rebellion had evolved for themselves from the original charters of trade and colonisation granted to the companies who founded the settlements. It was due to such men as Edward Gibbon Wakefield, Sir William Molesworth, Lord Durham, and Lord Elgin, and to their strenuous efforts that the danger of this course was realised in time to save the attachment of the Canadian Colonies to the Empire. No Government of a European Colony which does not derive its authority from representative institutions, however just and wise its policy may be, can assert without question that its acts commend themselves to a majority of the people concerned. Even if they do so in fact, they are not dictated by the decision of that majority. Every such act is to them a foundling rather than their child, and even where they accept and adopt it, they cannot regard it with enthusiasm as their own. They are not responsible for it in the first degree, and



it does little to mould their actions and thoughts for the future. It lays no stone in the firm foundation of political creed which makes representative institutions, in so far as they are truly such, the most stable and continuous of all the forms of Government. On the other hand, persons dissatisfied with such acts are provoked to a hostility which seeks to change not merely the members or policy of the Government, but its very form. Its decisions can hope for nothing more than cold acceptance at the hands of one party, and bitter resentment in the hearts of the other. But apart from this they cannot be the outcome of a policy which remains continuous in matters fundamental to the national life. Laws and institutions, however fundamental, must of course be altered from time to time so as to agree with the slow but continuous change ever taking place in the inward thoughts and outward conditions of the race. "A forward retention of custom is a more turbulent thing than change itself." But a change in laws or conditions which are fundamental to a community must not be arbitrary or spasmodic. The laws of England relating to land, marriage, and even the liberty of the subject, are continually modified by Parliament, but no Englishman expects to wake up one morning and find the law of inheritance cancelled, marriage dissoluble at the option of either party, or the Habeas Corpus Act repealed. The relations of the white man to the native, more especially in respect of the ownership of land, were fundamental to the pioneers of South African colonisation. But a Power, outside the country, and more especially a Power located 6,000 miles away, in the days when sailing ships were the only vehicles of information, could not in the nature of things realise what matters were fundamental to the people of a land living under conditions which have neither precedent nor parallel in Europe itself. A change seeming in London

to involve no more than the drafting of a letter or the recall of an agent meant, when applied at the Cape, a complete reversal for whole classes of people in the essential conditions of their lives.

So long as the Imperial Government remained the immediate source of authority over the domestic affairs of South Africa, changes of this kind were liable to happen in at least three ways. The views of the Government might change and often were changed by well-intentioned men who imagined the colonist to be only an invader and spoiler of the natural heritage of the native. Secondly, so long as the Governor was the actual as well as the formal agent of government in the Colony, a change of person often meant a change of policy far more radical than that which the ordinary swing of the pendulum at a popular election can produce. Lastly, the Imperial Government itself might be changed by issues which seldom if ever referred to any questions at stake in the Colony itself, such issues as brought Lord Glenelg to office and undid the work of Sir Benjamin D'Urban.<sup>1</sup>

The Government of Cape Colony was affected by all these influences, and as a result its inhabitants were no more patient of Imperial control than their forefathers had been of the Dutch East India Company. The

<sup>1</sup> See "Lord Durham's Report on Canada," p. 137 \*: "Hitherto the course of policy adopted by the English Government towards this Colony has had reference to the state of parties in England, instead of the wants and circumstances of the province; neither party (in Canada) could calculate on a successful result to their struggles for any particular object, because though they might be able to estimate accurately enough their strength in the Colony, they could not tell how soon some hidden spring might be put in motion in the Colonial Office in England, which would defeat their best laid plans, and render utterly unavailing whole years of patient effort."

\* (Editor's footnote.) For reference see Lucas, Sir C. P., "Lord Durham's Report on the Affairs of British North America," Vol. II., p. 192.

causes at the root of their discontent are not to be sought in any special failing on the part of either of these two very different authorities, but in the fact that both were endeavouring to carry out the same task under the same impossible conditions. Just as the first settlers withdrew to Swellendam and Graaff Reinet, beyond the existing frontier of the Dutch East India Company's territory, so did their descendants, in the first half of the 19th Century, indignantly retire behind the Orange River and even behind the Vaal and Tugela, anxious only to escape a Government whose sympathies were poles asunder from any notions of their own. Scorning its protection, they looked rather to distance and the danger of the wilderness to stand between them and conditions which they regarded as intolerable.

It can scarcely be doubted that if the inhabitants of Cape Colony had been consulted in the management of their own affairs, and invited to co-operate in the task of abolishing slavery, a matter affecting not merely the British Empire, but the civilised world, this passion to escape from Government control would never have possessed them, and there would be but one government and one South African nationality in British South Africa at the present time. Territories which are now separate States would have become no more than provinces with such administrations of their own as were required for local purposes; the footing of the British fleet would have been secured not less but more firmly than it is to-day, and from the Zambesi to the Cape of Good Hope all citizens of South Africa would have been ardent in their zeal for an Empire which would have secured their coasts from invasion, and enabled them to establish and develop their own distinctive nationality free from interference from without.

Such a Government might not perhaps in the early

days have been in all respects so enlightened or efficient as the administration appointed by the British Cabinet, but its native instincts would have more than made up for defects of education or knowledge. No amount of political experience and training could have made British rulers, whose eyes were riveted on Europe and the East, view the internal and domestic interests of South Africa correctly. Statesmen whose lot was cast with the future of the country itself would have judged better by mere intuition, and the people would have valued their government as a thing native to the soil. As the settlers of the old Colony increased, the surplus population must still have migrated to the north. Such a movement was as natural as the swarming of bees from a hive, and Lord Glenelg, by his action, merely hastened an event which must have happened sooner or later. But like the pioneers who were moving at the same period inland from the United States and in Canada they would have set out with no sense of resentment towards the authority under which they had lived, with no deep and abiding suspicion of all authority whatever, but desiring to carry it with them as their inheritance wherever they went. The inland States would have been established, not as separate sovereignties, but as Manitoba was established by the Canadian pioneers as a new province with representatives of its own in the parliament of the Canadian Dominion and under the sovereignty of the Queen, so would have been the spirit of their movement. In all likelihood the Orange and Vaal Rivers and the Drakensberg range would have been taken as convenient lines on the map for the boundaries of provinces. But it is scarcely conceivable that those lines would have been erected as the frontiers of independent sovereignties, within which separate States were to grow up, subject to no South African tribunal competent to decide their disputes and enforce amongst them a law common to all,

recognised by all, and founded on the will of the whole people of South Africa—States which were therefore destined to submit their disputes like hostile nations to the judgment of war.

The desire of the emigrants, or of a great part of them, to cut themselves off from the society they left behind them, was the first condition which made it possible for the inland States to be separated politically from the coast Colonies. That such a condition could exist at all was directly due to the practice of attempting to rule South Africa from London. This strange desire for separation from their own kindred was more unnatural than it would have been in the case of the United States or Canada, where the native races melted away before the approach of civilisation. In South Africa the settlers found themselves faced by a native population not so numerous as the native population of India, but still firmly established, and such as the whites might dominate by their higher intelligence, but could not hope to displace by superior numbers. Had the Imperial Government felt able to impose upon South Africa all the responsibilities together with all the privileges of self-government before the period of inland migration set in, the people of South Africa would have been held together by the necessities of their common defence.

In those days the whites were fewer in proportion to the natives than they are to-day, and the idea of separation into independent groups would never have been allowed or even entertained, had they not been taught to rely on British armies instead of upon themselves for protection. As it was, this responsibility was retained by the British Government, to whom South Africa was a part of the Indian question, and they viewed it in much the same light as they regarded the problems of the North-Western Frontier. While they accepted to the full the responsibility for protecting



life and property so far as territories already settled were concerned, they shrank from any step which might tend to increase the cost involved. The question ever before their mind was how to restrict their liabilities, and not how a nation was to be founded in South Africa; how the race was to be fitted to the country; and how the country was to be fitted to the race. The fact which impressed itself most vividly on Colonial Secretaries in Whitehall was the pressure of the Treasury and of the War Office, and inevitably they inclined to the plan of leaving to pioneers the duty of their own protection so far as seemed compatible with the general peace of the country. Here was a second cause which led to the separation of the inland States. Not only did the emigrants wish to escape the rule of the Cape Government, but the Imperial power which controlled that Government wished to escape responsibility for their protection, and to establish them like Afghanistan, as independent buffer States. This cause of separation, like the other, had its origin in the fact that the domestic affairs of South Africa were subject to external control.

A third cause was operating in the same direction. Influential statesmen in the earlier part of the last century regarded the separation of the Colonies, inhabited by white settlers, from the British dominions less as a catastrophe to be feared than as an object to be promoted as rapidly as the growing strength of each Colony allowed. To encourage the Colonies to do, without bitterness, what the American Colonies had done as an act of hostility was the deliberate aim of the Manchester School which dominated British policy for some fifty years. No one proposed to abandon the Cape itself, which was of such importance to the trade and Empire of the East, but to convert the northern extensions of South African colonisation into independent States was an obvious and direct development of the policy of that

school of statesmen.<sup>1</sup> Here, again, was a cause at work which would never have operated had the people of South Africa deliberately been given a controlling influence in the growth of their own country.

These reasons, then, all having their origin in one and the same cause, were operating to induce the Imperial Government to set limits to the expansion of Cape Colony, and to encourage the growth of independent States on her frontiers. Circumstances over which they had no control had gradually drawn them to extend their effective authority hundreds of miles inland as far as the Orange River. The Orange River was in no sense a natural boundary; it forms no serious obstacle to communication. But it was a line on the map, and the Imperial Government thought that their responsibilities might be limited there. They watched the northward migration of the voortrekkers almost impassively, and for at least ten years made no attempt to follow them into the wilderness. It was not, however, very long before the essential unity of the country refused to be ignored. Disorders between the natives and the voortrekkers soon began to menace the safety and peace of territories where the responsibility of the Imperial Government could not be denied, and in 1848 the Imperial Government extended the British frontier some hundreds of miles north to the Vaal River, another line on the map, and no more a true physical division than the Orange River. The new territory was incorporated as the Orange River Sovereignty under the authority of the Governor of the Cape Colony.

<sup>1</sup> See "Life of James, Eighth Earl of Elgin," by Theodore Walrand, C.B., p. 111: "Lord Elgin was dismayed to find . . . that there had arisen, a school of philosophic statesmen . . . according to whom it was to be expected and desired that every Colony enjoying Constitutional Government should aim at emancipating itself entirely from allegiance to the mother country, and forming itself into an independent Republic; with such views he had no sympathy."

In the course of the next six years, the Imperial Government persuaded itself that the settlers of the Orange River Sovereignty were strong enough to hold in check the native tribes in such a manner as not to imperil the peace of all South Africa. The area was contiguous to the territory of Cape Colony, and divided from it by no real physical barrier. It was inhabited by a population similar in their interests, and in the conditions and manner of their life, and closely united in blood relationship, to the inhabitants south of the Orange River. In the teeth of protests from a large proportion of this population, the territory between the two rivers was created as a separate unit of Government in South Africa.

The same causes led to the same result in Natal, except that in this case the territory was never erected on a footing independent of British sovereignty. As Natal was accessible from the coast, a number of British settlers occupied the country, large enough to make it impossible even for the most ardent opponent of Colonial expansion to encourage the establishment of a sovereignty independent of the British Crown. At first the territory of Natal was annexed to Cape Colony, but in 1845 it was erected as a separate Government, within the British dominions.

In the meantime a number of settlers had established themselves in three or four different communities north of the Vaal River, and the Imperial Government, anxious to do anything rather than extend their South African responsibilities, adopted towards them the attitude which they had adopted towards the settlers north of the Orange River previous to the disturbances of 1848. In 1858 these various communities united under the name of the South African Republic, and a fourth unit of Government was established in South Africa. Here, again, history repeated itself. In 1876 and 1877 the Republic, having engaged in an inconclusive war with

Sekukuni, was reduced to disorder and insolvency. It is not proposed to discuss the question of the motives which led politicians and others to urge the annexation of the Transvaal, but whether it was the fear of native wars which might disturb the peace of all South Africa, whether it was the fear that the Transvaal trade might be diverted from the coast Colonies by a railway to Delagoa Bay, whether it was Lord Carnarvon's anxiety to accomplish South African federation, or whether all these reasons operated together, the fact remains that the country was annexed to the British Crown in 1877. The annexation, however, was resented by a great number of the people, who ultimately rose against the new Government, and maintained their independence by several military successes against the British troops. In the meantime political changes at home brought back to power a Government with a different policy, and the territory between the Vaal and the Limpopo was re-established in 1881 as a Republic with a very large measure of independence. The feature of this transaction which fundamentally affected South Africa was this, that a second State was created which could think, feel, and act as though it were foreign to, and independent of, all the rest. Men born in Cape Colony who settled in that State, on arrival found that as regards political status and the rights of citizenship, they were, in the eyes of the law, as much aliens as if they had been the subjects of Germany, Russia, or Portugal.

Meanwhile, Sir George Grey, an Englishman to whose memory every South African, to whatever race or party he may belong, looks back with affection and reverence, had seen long before what evil consequences this unnatural erection of separate governments beyond the Orange River boded to the future of South Africa. Writing in March, 1857, he advised Sir E. B. Lytton that "by a Federal Union alone, the South African

Colonies can be made so strong and so united in policy and action that they can support themselves against the native tribes;" and on November 19th, 1858, he pointed out that the Dutch population in South Africa was of one stock, and there could be "no doubt that in any great public, popular, or national question, or movement the mere fact of calling these people different nations would not make them so, nor would the fact of a mere fordable stream running between them sever their sympathies, or prevent them from acting in unison." When the circumstances are considered which led to the northward movement of the voortrekkers across the Orange River, the unhesitating confidence which the burghers of the Orange Free State reposed in the wisdom of this great man does equal honour to themselves and to him. In 1858 the following resolution, which speaks for itself, was passed by the Volksraad of the Orange Free State:—

That the Raad feels itself, in union with a large number of burghers who have already approached the Council by memorial, convinced that a union or alliance with the Cape Colony, either on a plan of federation or otherwise, is desirable, and resolves that His Honour the President be requested to correspond with His Excellency the Governor on that subject, in order thus to ascertain whether the Cape Parliament will declare itself inclined for such a union, and whether the Colonial Government would receive a Commission from the State, if possible at one of the towns of the Eastern Province, who, together with that Government, or with a Commission to be appointed by it, shall draft the preliminary terms of such a union, to be submitted for the approval of both Governments.

This resolution was submitted to the Legislature of Cape Colony by Sir George Grey, but before any further steps could be taken, the movement for union was crushed by Sir E. B. Lytton, who informed Sir George Grey that



Her Majesty's Government were not prepared to depart from the settled policy of their predecessors by advising the resumption of British sovereignty in any shape over the Orange Free State.

Here we see South Africa herself, on her own motion, or, at any rate, upon the motion of a British Governor whom she implicitly trusted, attempting to scotch the mischief of disunion, before the establishment of separate governments had made its full effects felt, and the Imperial Government refusing to sanction the union. Had that union been effected, the Transvaal must rapidly have been drawn into it, and in the fullness of time Natal would have entered the federation. As it was, the four territories were left under separate governments with the inevitable result that different policies, different laws, and different traditions, peculiar to each, sprang up, like walls of a partition, where nature had built no such walls, to divide the one from the other. All the conditions of the country and the necessities of its people pointed to the building up of one nation, but the political arrangements forced upon her were such as to school South Africans to act, think, and feel as though they were destined to be four.

A series of events elsewhere led to the next revival of the question of union in South Africa. Similar divisions between the Canadian provinces had reached the acute stage. They had for more than twenty years been severally endowed with responsible institutions, in accordance with the recommendation of Lord Durham's report, but it soon became clear that provincial autonomy was a different thing from national self-government. The Canadian Colonies found themselves in perpetual conflict with one another. The questions most vital to the country were not internal to the various provinces, but affected the relation of one province to another, and the Colonies, though self-governing, found that in practice such questions had to be referred

for settlement to the Secretary of State. They found that self-government, in the full sense, enabling them to deal with the most important matters, was in practice impossible, however anxious the Imperial Government might be to confer it upon them, until they themselves had established a Canadian Government for the settlement of Canadian questions. So unbearable did the situation grow that all parties and nationalities agreed to sink their minor differences for the time being, and to unite their forces for the attainment of the one reform which must necessarily precede a settlement, and even the profitable discussion, of any of the lesser issues, which were at that time distracting the country. Within less than three years from the commencement of the movement, Canada achieved a scheme of union which has proved so far to be one of the most successful, if not the most successful, federation which the world has ever seen. Lord Carnarvon presided over the deliberations of the conference which completed this great work. He saw that South Africa was suffering from the same evils as Canada, but he failed to carry the parallel far enough, or to apprehend that union must be achieved by South Africa on her own motion, as it had been achieved by Canada, and as South Africa herself would, in all probability, have achieved it, had she been left to the wise and beneficent guidance of Sir George Grey. In 1876 Lord Carnarvon attempted to force upon her the gift of union which his predecessor in 1859 had withheld.

The matter was managed so as to fail to secure the support of popular opinion in Cape Colony; the Cape Ministry declined to take part in any conference on the subject, and finally in 1876 Lord Carnarvon induced the Imperial Parliament to pass an Act enabling the various Governments in South Africa to unite in one confederation whenever they saw fit to do so. The Act was

closely modelled on the previous Act providing for the union of Canada in one Dominion. This Act cannot be said to be in all respects adapted to the conditions of the country to which it was intended to apply. It was certainly not such a measure as the States concerned would themselves have produced in conference. But apart from this, it was, as has been said before, put forward in such a way as might have rendered even a popular measure unacceptable to the people of this country, and no attempt was made on their part to avail themselves of its provisions. It expired in accordance with its own terms in 1882.

The purpose of this historical sketch will have been achieved if I succeed by it in inducing South Africans to believe that, if in the years to come they have not the same privilege of managing the strictly internal affairs of South Africa as Canadians and Australians have of managing the strictly internal affairs of Canada and Australia, they will have no one to thank or blame but themselves. By some form of South African union evolved and adopted by themselves, they can secure the same independence in their internal affairs within the British Empire as the people of the United Kingdom, of Canada, and of Australia enjoy. In respect of the strictly internal affairs of Cape Colony, of Natal, of the Orange River Colony, and of the Transvaal, the peoples of these Colonies enjoy this very independence, or will shortly enjoy it, by the possession of the right of self-government within the boundaries of those Colonies. But independence in respect of the strictly internal affairs of each Colony does not carry with it independence in respect of the strictly internal affairs of South Africa, and in the long run South African affairs are of more real importance to all the people of each of the South African Colonies than the affairs of the particular Colony in which they happen to live. If the people of

South Africa reject the policy of closer union, two alternatives, and two only, will confront them. They may aspire to a continued independent existence for each Colony, and take the chance that in the years to come their sons may find that some dispute between the various Colonies can only be settled by the arbitrament of the sword. If they recoil with horror from the contemplation of the possibility of fratricidal strife, then they must be content, as now, to refer their disputes to the High Commissioner, who must be subject to the control of His Majesty's Government in London, who, in their turn, must be subject to the control of the Imperial Parliament. If in this sketch I have laid stress on the consequences to South Africa of the action of the Imperial Government and Parliament, I would not have it supposed that I mean the conclusion to be drawn that, whenever there has been a difference of opinion between public opinion in any part of South Africa and the Imperial Government and Parliament, the former has been always in the right, and the latter always in the wrong. Nothing, in my opinion, could be more historically untrue. Both parties have committed sufficiently grave blunders in the past to make the task of endeavouring to apportion blame a wholly unprofitable one. Politicians may have blundered, but the truth remains that the British people, by the side of, and in the cause of, the people of South Africa, have lavished blood and treasure in native war after native war from the Crocodile or the Zambesi to the Cape of Good Hope, and that ties thus formed are not lightly forgotten. I have had but a single purpose in view, to demonstrate to the people of South Africa from their own history how much they have to gain by accepting that full measure of internal independence which the British Empire offers as a birthright to all its sons.

## PART II.

RESULTS OF DISUNION ON THE RAILWAY DEVELOPMENT OF  
SOUTH AFRICA.

South Africa has no such waterways as connect the interior of America with the sea, and her relative backwardness could not be overcome so long as ox-waggons travelling less than a hundred miles in a week were the principal means of communication, as they were up to 1870. For thirty years, while the rest of the world was moving at the pace of steam, South Africa had been keeping step with the ox, and railways alone could enable her to recover the ground lost during that period. In 1873 the Cape had  $63\frac{1}{2}$  miles of railway, and any extension would have been slow indeed had it depended on nothing more than the growth of the farming industry.

About 1870 an entirely new factor was introduced by the discovery in Griqualand West of diamond mines, which proved to be the richest the world had ever known. On the map of South Africa attached to this memorandum\* the point reached by the railway at various dates is shown. The tremendous impetus given to railway construction in Cape Colony by the discovery of precious stones in its northern territories will be seen. The  $63\frac{1}{2}$  miles of railway existing in 1873 had become 1498 miles in 1885. Great encouragement was given to the farming industry by the creation of a new market for its products, and until 1885, when the railway reached Kimberley, by the immense demand made upon the ox transport of the country. Both in Cape Colony and Natal the railways were constructed and managed by the State, but in 1886 the two systems had not as yet advanced so far as to feel themselves in competition with one another. The development of each

\* Not reproduced. See Walker, E., *Historical Atlas of South Africa*.



was controlled by its own Government, which was answerable to all the interests concerned, and responsible, therefore, for holding the balance between them. Various ports in the same Colony might compete with one another, but one government could decide between them, and determine what fresh works were needed to carry the traffic which passed through the country.

Events were now to happen which, owing to the disunion of South Africa, brought the Governments into competition with each other, deprived them of power to gauge the future and proportion their enterprise to its needs, and exposed the whole country to many of the evils which State railways are supposed to prevent.

In 1886 goldfields were discovered in the Transvaal which, like the Kimberley diamond mines, soon proved the richest in the world. In an able and far-seeing report to the Transvaal Government, produced by Mr. Johann Rissik and Mr. Christiaan Johann Joubert, immediately after the discovery of the Witwatersrand in 1886, the opinion was expressed that the development of these goldfields was not a mere matter of pick and spade in the hands of diggers, but involved such construction of works and expenditure of capital as powerful companies alone could undertake. In the next fifteen years it was seen that the expenditure of money on these works was destined to run to a figure which far exceeded anything that the authors of this report had dared to suggest. During the previous decade the Kimberley mines had revolutionised the economic condition of Cape Colony. It was no longer a country of lonely farmers and isolated dorps connected with the outer world by two or three ports, where little had been done to improve natural facilities. It was a country in which thriving cities had sprung into existence, in one case, at any rate, in the wilderness itself. Its harbours

began to be equipped with docks and wharves. South Africa ceased to be a place where few, if any, were rich, and all followed a simple, and in most cases, a primitive manner of life, and became the land of great individual fortunes. Above all, it ceased to be the country of the ox-waggon, and became the country of the railway.

The change in transport conditions of one-half of South Africa, wrought by the Kimberley diamonds, was effected even more rapidly in the other half by the power of the Witwatersrand gold. At first, as in the case of Kimberley, the merchandise required by the Rand was brought by ox-waggon from the nearest terminus on the Natal or Cape railways, which each of these Governments was pushing forward with all possible speed. Day and night teams and waggons, in almost unbroken columns, moved from railhead along the Natal Road. But Cape Colony was by no means prepared to see the whole profits of the landing and carrying industry fall into the hands of her smaller neighbour. In 1889 and 1891 she made arrangements with the Orange Free State, threw her railway across its territory, and by May, 1892, was unloading at Viljoen's Drift, within thirty miles of Johannesburg, goods from trucks which the merchants of Cape Colony had loaded in their ports. The first railway rivalry set up was between her own ports, East London and Port Elizabeth, but she could hold the balance between the two so long as the entire route from them to the competitive area was under her control. Very soon, however, the two British Colonies and Delagoa Bay found themselves, like American railroad corporations, in active competition for commerce so valuable as to be capable of revolutionising their whole economic system. For a short period Cape Colony's Agreement with the Orange Free State had placed her in a position of virtual monopoly of the Witwatersrand trade. The primitive prejudice of the burghers of the South African Republic

against railways was quickly overcome, a company was started in the Transvaal, closely associated with the Government, which joined its line to that of the Cape at Viljoen's Drift. By September, 1892, Cape Town, Port Elizabeth, and East London were linked to the Rand. Neither Portugal nor Natal however were far behind, and arrangements were made in each case for linking their lines with the Netherlands Railway in the Transvaal, the one at Komati Poort, the other just north of Laings Nek. By December, 1895, goods were being delivered from Delagoa Bay and the ports of Natal and Cape Colony from the truck in Johannesburg itself. From this time onward Delagoa Bay began to be the keynote of South African railway politics, and the fact that it has been so is the inevitable result and penalty of the unnatural disunion of the country, which, at this stage, I must describe as Anglo-Dutch South Africa.

Delagoa Bay is a natural harbour in Portuguese territory, some 40 miles nearer, as the crow flies, to Johannesburg than Durban, 210 miles nearer than East London, and 310 miles nearer than Port Elizabeth. In 1822 a British naval expedition explored this territory, and obtained a cession of it from a native chief. In 1869 when the conclusion of a commercial treaty between Portugal and the South African Republic drew attention to the importance of the Transvaal trade, the British and Portuguese Governments both laid claim to Delagoa Bay. In 1872 the dispute was submitted to the President of the French Republic for arbitration, and in 1875 the debated territory was awarded to Portugal, the British Government obtaining a right of pre-emption as against any other Power. Immediately after this, in December, 1875, the King of Portugal and President Burgers concluded a treaty of amity and commerce between Portugal and the South African Republic which provided in a protocol for the construction of a

line from Delagoa Bay to the Transvaal. It was found impossible, however, to raise sufficient funds, and the scheme was abandoned on the annexation of the Transvaal in 1877. A supplementary agreement was arrived at in May, 1884, but it was the discovery of the Rand which revived and gave life to the scheme. The anxiety of the Government of the South African Republic for the construction of this line was due to the power of control which the coast Colonies at that time possessed over her commerce which they did not scruple to use to their own advantage, as will be seen when discussing the history of the Customs Conventions. Thus it happened that when the discovery of gold on the Rand, in 1886, gave birth to a large and rapid traffic, Delagoa Bay was in the hands of a foreign Power, and the Transvaal was under a Government which, as it seemed at the moment, had small reason to favour the British Colonies.

Apart from matters of sentiment, the Government of the South African Republic, whose duty it was to think only of the interests of the Transvaal itself, had material reasons for bestowing its favours on the foreign port. If goods were brought by railway from Delagoa Bay to the Rand, not only was the route actually shorter by 89 miles, as measured along the rails, than the Durban route, but rates were payable to the Railway Company, in which the Government was deeply interested, on goods from Delagoa Bay, over a distance of 341 miles of railway, as opposed to 178 miles on goods from Durban, and 49 miles on goods from Cape ports.

It was in May, 1894, that trains first ran through from Delagoa Bay to Johannesburg. The full effect was not felt at once owing to the fact that, while the natural advantages of Delagoa Bay were great, very little had been done to overcome the minor difficulties, which exist in almost every natural harbour, of moving goods rapidly from the hold of a ship across the foreshore, and into

vehicles constructed to run on dry land, difficulties which in recent years have been overcome. Improvement in these details was merely a question of time, and ere long the Transvaal had the commercial interests of all South Africa on their knees at her feet. In 1895 a conference was held at Cape Town of all the railway authorities of South Africa. . . .

The Conference began by the demand of the Cape Government that rates should be fixed on such a scale as would secure to their own ports two-fifths of the trade. Mr. Middelberg declined to discuss the assignment of anything beyond a quarter share to the Cape. That, and that only, he was "prepared to offer" with the consent of the Transvaal Government. The words "prepared to offer" are used advisedly, and the position in which the Governments of Cape Colony, the Orange Free State, Natal, and Lourenço Marques now found themselves is worthy of remark. From the first page of the Minutes of this Conference to the last it is plain that the delegates of these States might claim what they pleased, but the share of the traffic to be allotted to each lay at the absolute discretion of the man who was at once the Manager of the Netherlands Railway and the Agent of the South African Republic. In his power it lay to decide what share of traffic should be carried by the trunk lines of either of the British Colonies, and the fate of the Orange Free State was involved in that decision. But Mr. Middelberg claimed more than the right to settle between one Government and another. He claimed to dictate the terms, over the heads of their own Government, upon which East London should compete with Port Elizabeth, and this in virtue of the fact that, out of 665 miles of railway from the one port to Johannesburg, and 713 miles from the other, he controlled no more than 49. The length of the single line which fell under the control of each State was of little



importance. The mastery remained to the hand which held the ends of all three.

Against the right claimed by another Government, which was not even a Colonial Government under the British Crown, to settle on its own terms a domestic question as between two ports over 600 miles from Transvaal territory, Mr. Schreiner, on behalf of Cape Colony, protested in vain. The whole Conference broke down. Cape Colony had still one card to play, and instead of delivering her traffic across the Vaal Bridge to the Netherlands Railway, she ran a siding down to the old waggon drift, entered into arrangements with numerous transport riders to deliver the goods on waggons, and booked them through to the Rand at rates which enabled her lines to compete with those from Delagoa Bay and Durban.

The Transvaal Government replied by closing the drifts, and for the moment the country was on the brink of war. Mr. Schreiner undertook, on behalf of Cape Colony, to guarantee half the cost of the war if Great Britain would force the drifts at the point of the bayonet, and, had it not been for the Imperial power behind Cape Colony, with which the Government of the South African Republic was not prepared at that date to match itself, had Cape Colony in a word been in the position of the South African Republic, war would almost certainly have resulted between the two either then or at a later date. If it were not for the power beyond the sea equally friendly to all the British Colonies, and if all the South African States were independent republics outside the community of the British Empire, the issue of the present situation would be national union, or failing that, a war in which men born in the same household would find themselves fighting in opposite ranks.

For the moment Cape Colony gained her point, but how the facts worked out to their inevitable conclusion

will be seen from the diagrams attached to this memorandum \* which show the division of traffic which has passed across the various lines in successive years. . . . In November, 1902, over 29,000 tons of merchandise for the Transvaal entered by the Cape ports, over 22,000 by Durban, and only a little over 14,000 by Delagoa Bay. . . . [In August, 1906], the Cape ports have fallen from over 29,000 tons to under 5,000 tons; Natal has fallen from over 22,000 to under 12,000 tons. The foreign port, on the other hand, has jumped up from a little over 14,000 tons to a little over 21,000 tons. Delagoa Bay is thus getting more than all the British ports put together. The same thing is shown in another way by a second table where the proportion of trade falling to each is traced. In November, 1902, 79 per cent. of the trade is going to British ports, 21 per cent. to the foreign port. Four years have passed under the British flag and 44 per cent. is going to British ports and 56 per cent. to the foreign port. Mr. Middelberg's offer of one-quarter of the traffic to the Transvaal was refused by the Cape Government in 1895. In the course of 1905 the share carried by the Cape railways amounted to 11 per cent. of the whole.

In 1897, shortly after this incident, the Government of the Orange Free State, under their agreement with Cape Colony, took over and proceeded to work the lines within their own territory. Obviously the interests of the Orange Free State were bound up with those of the Cape Ports in matters of trade, for all goods landed at a Cape port had then to traverse the whole length of its territory to reach Johannesburg. On the other hand, the Free State had entered into an offensive and defensive alliance with the Transvaal. The pecuniary interests of the Transvaal lay with Delagoa Bay and

\* Not reproduced.

Durban and the claims of the Free State upon its generosity were supported not merely by sentimental ties but by cogent political reasons.

From what followed it will be seen how hard it is for one community to make continuous financial sacrifices on behalf of another on grounds of sentiment or even for reasons of policy.

The new lines from Durban and Delagoa Bay were fast getting into their stride, and the results on the railway revenues of the Free State may be gathered from the following figures:—

|                                  |            |
|----------------------------------|------------|
| 1896—Gross revenue . . . . .     | £1,043,835 |
| 1897     "     " . . . . .       | 847,238    |
| 1898     "     " . . . . .       | 738,864    |
| 1899—Estimated revenue . . . . . | 660,000    |

What the burghers of the Orange Free State must have felt on the matter may be inferred from the following letters addressed to his Government by the Director-General of the O.F.S. Railways.

The first letter is dated 28 May, 1897, and in it Mr. Bronger says:—

I have the honour to draw the serious attention of the Government to the fact that the through goods traffic between the Cape ports and the South African Republic—a traffic on which the prosperity of our railways, and indeed of the State itself, largely depends—is falling off to an alarming extent. This will be apparent when I tell you that the gross receipts from the whole traffic over the Free State Railways in December, 1895, amounted to £104,618, and in December, 1896, to £79,189, while in February last (the latest date up to which the receipts from through traffic have been divided) they fell to £74,131.

Again during the month of January last the goods passing over the Free State lines into the South African Republic amounted to about 18,000 tons, or at the rate of 216,000 tons annually, while for the last month they have averaged only about 12,000 tons, or at the rate of 144,000 tons annually, being a falling off of 33½ per cent. in four months, while during the same period the goods traffic on the

Delagoa Bay route has increased by 30 per cent., the total for April being higher than on either the Free State or Natal routes. . . .

It is obviously in the interests of the Netherlands Railway Company, as a purely commercial undertaking, that this state of things should not be interfered with, as the effect of such an arrangement is not only to divert the through traffic from the shortest route between the boundary of the South African Republic and Johannesburg to the longest route, i.e. from the Cape—Free State route to the Portuguese route—but also to bring handsome profits into the pockets of the shareholders whether those shareholders be the Transvaal Government (which receives 85 per cent. of the net profits) or private individuals. . . .

In plain words the Government of the South African Republic was allowing the Netherlands Company to charge rates in excess of the maximum provided in their concession, over the line which united their system with that of the allied Republic, with the express purpose of diverting traffic from that line. It suited the South African Republic better to see the traffic running over the line which united the Transvaal with a foreign territory than over lines which ran through the territory of their ally.

Stranger still is the fact that the loss to the Orange Free State was largely due to the amount of traffic diverted to the British Colony of Natal. The tables quoted by Mr. Brounger show that the rates fixed by the Netherlands Railway Company were intended to discourage traffic through the Orange River Colony in favour of Natal as well as in favour of Delagoa Bay.

The lesson of all this is plain, namely, that a people will seldom endure visible, continuous and substantial pecuniary loss for the sake of another people under a separate government, however close the sentimental ties between them may be. The history of the country itself, however, furnishes another example, showing that the mere union of two or more States, by merging their interests in one, may prevent such a question ever arising.

ing at all. It was not many years since the Transvaal itself was divided into several Republics. One was centred at Potchefstroom, another at Lydenburg. Had the separation been perpetuated until 1890, the Dutch inhabitants of the Potchefstroom republic would have strenuously opposed any attempt to alienate one particle of the Witwatersrand revenues for the benefit of Lydenburg. As it was the two units were merged into one before the Rand was discovered and no such question ever arose. Had it not been for the outbreak of war in 1899 one of two things must have happened. Either the Free State would have been obliged to amalgamate its railways with the Transvaal system, or it would have been forced to reunite its railway interest to that of Cape Colony, and to have joined in a repetition of such a rate war as culminated in the closing of the drifts. In either event a war of rates must have followed sooner or later and who can say that it would have involved no danger of an eventual appeal to arms?

Everywhere the like conditions have yielded similar results. For seven years the thirteen American colonies fought side by side until 1783 when their independence was acknowledged, and then, within two years, they almost fought with one another. Pennsylvania was at odds with Delaware, Connecticut with Rhode Island and New York, New Jersey with New York and Pennsylvania, North Carolina with South Carolina and Virginia. Vermont, New Hampshire and New York were actually on the brink of war among themselves.

From such a calamity America was only saved by the establishment of the Union in 1788, which was in fact the erection of a Government competent to decide inter-state questions. In this instance customs questions were the occasion of strife, but how much more difficult and dangerous the matters in dispute would have been had each Government controlled a railway of its own,



will be readily understood by those who have handled contentious and complicated questions of railway rates. In that case, as in South Africa, one State would have held by the throat the entire trade of another. Under such conditions the only alternatives to union are war or the submission of domestic affairs to the strong control of some impartial power outside the country, or in plain words a surrender of some of the most cherished principles and privileges of self-government.

In the meantime, another set of interests, not properly connected with the railway problem, was fast beginning to draw the Transvaal from the company of her natural kindred into the arms of her foreign neighbour. Since 1886 the mining operations on the Rand had grown at a pace so rapid as to show signs of having outrun the available supply of rough labour. The conditions of the industry were such as tended to allow this difficulty to become acute before its reality was recognised. As had been pointed out by Mr. Rissik in the report to which reference has already been made, works must be carried out and equipment erected on a large and costly scale before the low-grade reefs of the Rand can be mined at a profit. At this stage skilled labour plays a principal part in sinking shafts and constructing machinery. As soon however as the shaft is sunk and the equipment complete, when in fact nothing remains but to break the rock and work the machinery, the proportion of unskilled labour required is much greater. In those days there was no difficulty in obtaining any amount of capital for the development of the Witwatersrand mines, although, in many cases, the works to be undertaken before any ore could be crushed could not be completed for some years. As soon, however, as a number of mines had reached the working stage they began to make heavy drafts simultaneously on the supply of native labour throughout South Africa. The

effect made itself felt in the remotest parts of the country, so that the mining companies were soon driven far afield and began to rely for a great portion of their supply on the numerous but poverty-stricken tribes of Portuguese East Africa. The Province of Moçambique thus came to hold the Transvaal with both hands. On the one hand it had an arrangement with the Netherlands Railway Company by which the railway rates on goods from Delagoa Bay to Johannesburg were less by from 13s. 4d. to 15s. per ton than those on goods from Durban (the nearest British port) to Johannesburg, and it had all the interests of the Netherlands railways and the Government of the South African Republic behind it in maintaining this arrangement. On the other hand the mining companies entered into arrangements with the Portuguese authorities for recruiting labour in their territory ; a source of supply which was absolutely necessary to them if works and equipment on the mines, representing millions of pounds of capital, were not to lie unused for want of hands to break the rock from the mines.

In October, 1899, the war broke out, and the whole of the stamps of the Rand stood idle for nearly two years. In 1899 these stamps were yielding gold at the rate of upwards of £17,000,000 a year. In 1901 to re-start the industry was the imperative need of the moment. The stoppage for two years involved a loss for the time being of from £35,000,000 to £40,000,000, and no one who reflects what this means will suggest that the urgency of the case depended upon the interests of the shareholders. When it is remembered that the vast bulk of that great missing fund represented not the profits of mineowners or shareholders, but the daily bread of half the population of the Transvaal, it will be seen how imperative this need was. Almost the whole of South Africa was still the theatre of civil war,

a war which was absorbing an immense quantity of rough labour by its operations. Men who lived in Johannesburg at the time relate that, though the central streets in Johannesburg were a danger to ordinary traffic, it was found impossible to undertake their reconstruction, and that the utmost difficulty was experienced in procuring labour sufficient to provide for the barest necessities of public life. The Moçambique provinces were not merely one of the sources of labour, but the only possible source from which labour could at that period be brought.

A further circumstance of that time must be borne in mind. In 1901 the question was less how to find traffic to support the ports and railways than how to find a port and a railway to carry traffic to the Transvaal. Every truck which could be made available at a port for carrying goods to the Transvaal was an object of the keenest competition.

It is a matter of common knowledge that during the war the lines from British ports were worked to their full capacity, and only such traffic as was absolutely necessary was left to Delagoa Bay. The military share of the traffic was out of all proportion to the civil, and necessarily the Imperial war material was introduced through British harbours. Not unnaturally, the Portuguese authorities feared that the existence of Delagoa Bay as a South African port was in jeopardy. As soon, however, as the need of re-opening the mines began to be felt in the Transvaal it was seen what a powerful lever they held in their hand.

The various treaties of amity and commerce between the Portuguese Government and the South African Republic were, of course, abrogated by the annexation of that territory to the British dominions, together with the subsidiary arrangements which had been made with the Netherlands Railway Company and the mining

authorities. All these agreements together had secured to the Moçambique provinces such treatment as exactly suited their interests and position; but the fact must be kept in mind that the treaties with the Republican Government were of less moment to Portuguese interests than the agreement as to railway preference with the Netherlands Company and the agreement as to labour with the mine managements. Some verbal understanding on all these matters no doubt existed between the two Governments; but that does not alter the fact that before the war the arrangements of Portugal in respect of commerce were made with the Government of the South African Republic, while those relating to railways and labour were entered into with private corporations.

The war had resulted, however, not only in the establishment of a new Government in the Transvaal, but in the nationalisation of its railways, so that henceforward questions of railway rates became as professedly a matter of public policy as questions of customs. At the same time the war, by interrupting the labour supply and so cutting off the livelihood of a great population, had made that question something more than a mere industrial interest to be handled by the Chamber of Mines, and had rendered it for the moment the first and most pressing problem which the Government itself had to face. Time and the conditions of that period were all in favour of the Moçambique province. The loss of wealth brought by native labourers from the goldfields to their territory was no doubt a matter of serious concern to its Government, but nothing like so grave as the problem, which faced the Transvaal Government, of securing the livelihood of a great white population. The Portuguese Government could afford to wait indefinitely while starvation and ruin were staring a whole section of British South

Africa in the face, so that the re-opening of the labour supply clearly depended upon the renewal of the old railway understanding, which had existed before the war.

The *modus vivendi*, which as its name denotes, was intended to be a temporary arrangement, was framed to enable the industry, upon which the population of the Rand depended, to be re-opened, and to postpone the vexed questions involved in the old treaties and agreements for settlement at a more convenient season. In those days the number of trucks which each port could obtain for forwarding to the Transvaal was a matter of paramount interest. The Military Department in control of the railways, the civil government, the municipalities and all private interests thought and spoke in terms of "trucks." The undertaking contained in the *modus vivendi* that so many trucks a week should be accorded to Delagoa Bay and other references to the warlike conditions of the time show how incidental this agreement was to the exigencies under which it was framed. It merely purported to revive for the time being the old treaties and agreements, with the exception of such provisions as allowed the free importation of spirits from the Moçambique provinces. But, in fact, it created an entirely new situation by uniting in one diplomatic agreement between the two governments stipulations relating to labour and railway rates as well as to customs and commerce. It was, in effect, a compact made by the Imperial Government on behalf of one Colony, the effects of which were to be felt by the whole of British South Africa, which having no parliament or administration of its own, was unable to make its voice heard in the matter.

The main provisions of this document were as follows :—The mining companies were collectively authorised, subject to regulations framed by the Portuguese



Government, to recruit natives in their territory for periods not exceeding twelve months. The engagement might then be renewed at the option of the native. For each labourer so recruited a fee of 13s. was to be paid in the first instance to the Portuguese Government, and if the native re-engaged in the Transvaal for a further period an additional fee of 6d. for each month of such period. In consideration of this privilege goods were to be carried from Delagoa Bay to Johannesburg by rail at rates which preserved the same relation to the rates charged on goods from the British ports as existed prior to the war.

[This gave a preference to Delagoa Bay of 13s. 4d. per ton over normal goods from Durban and East London, and 21s. 8d. per ton from Port Elizabeth.]

The provisions of the Treaty of 1875 between the Transvaal and Portugal were to be renewed with the exception that spirituous liquors produced in the Moçambique provinces were not to be allowed to enter the Transvaal duty-free as before. Customs duties were to be no higher than those charged on goods entering by British ports. If notice to terminate the agreement were given by either party, all its provisions were still to operate for a year with this most important exception—that the right of the mining companies to recruit natives in Moçambique territory was to cease forthwith.

The effect of this last provision will be seen at a glance. Portugal would continue to enjoy the railway privileges a year after the agreement was denounced, while the indentures of some of the native labourers would begin to expire at once, unless they could be persuaded to renew their contracts. Only such labourers as happened to be recruited at the moment when the agreement was denounced would be available to the

mines while the provisions of the agreement in respect of rates would stand good to the Portuguese railway for twelve months.

Certain questions, however, as to the interpretation of Article IV. of the *modus vivendi* have recently been referred to the highest legal authority and as the advice received has a most important bearing on the situation and on the position of the Transvaal Government it is advisable to summarise as clearly as possible the legal opinion received.

It is advised—

(1) That the terms of the *modus vivendi* as to rates apply only to stations between Johannesburg and Lourenco Marques on the line referred to in Article IV. (i.e. the Lourenco Marques-Ressano-Garcia-Johannesburg line) and not to stations on any other line.

(2) That the preference conferred on the Portuguese administration by the *modus vivendi* must remain at the figures shown in the table on the previous page only so long as the rates remain unaltered. If the rates are reduced from the ports the preference in favour of the Portuguese can be reduced proportionately ; that is to say, if a reduction is made in the through rates from the other ports the Central South African Railways are obliged to make only such a reduction in the Delagoa Bay through rate as will result in this new reduced rate bearing the same relative proportion to the old rate, as the reduced rates from the other ports bear to the old rates from those ports.

An example will illustrate the point. Suppose the intermediate rate from East London to Johannesburg were £5 15s. 0d. and from Delagoa Bay to Johannesburg were £5 0s. 0d., giving the latter port a preference of 15s. Suppose then that the Intermediate rate from East London were reduced from £5 15s. 0d. to £5 0s. 0d. The new rate from Delagoa Bay would then be found

as follows:—As £5 15s. 0d. is to £5 0s. 0d., so is £5 0s. 0d. to the new rate from Delagoa Bay, i.e. £4 6s. 11d. The Delagoa Bay preference would thus have been reduced from 15s. to 13s. 1d. but would still bear the same proportional relation to the East London rate. Sea-freight remaining constant, such a reduction in preference is a matter of considerable importance.

(3) It is further advised that the *modus vivendi* only applies to lines which were in existence when it was made, and that therefore the obligation of maintaining the preference in favour of Delagoa Bay, which attaches to the through lines existing before the war, does not attach to the new through connections to the Transvaal from the Cape Ports *via* Fourteen Streams and Klerksdorp, from Durban *via* Van Reenen and Kroonstad and from Delagoa Bay *via* Witbank and Brakpan.

This last point is in my opinion of very great importance. For were the *modus vivendi* to be denounced and native recruiting to be stopped, South Africa could at once reply by so reducing the rates from the Cape and Natal ports by the new through routes as to divert the whole of the traffic from Delagoa Bay and so deprive that port at once of the advantages accruing to it from the *modus vivendi* instead of its retaining them for one year. But, while I do not wish to deny the importance of such a weapon of defence as is afforded by the legal opinion I have quoted above, the pith of the whole situation lies in this. Ninety per cent. of the natives employed underground on the Rand are obtained under the terms of the *modus vivendi*, and this supply begins to dwindle the moment the agreement is denounced by either party. The Coast Colonies will readily see that if the whole of the Delagoa Bay traffic were transferred to their lines, it would profit them little, if at the same time half the stamps on the Rand were standing idle for lack of underground labour.

One further point, however, must be noticed. It is often assumed that the preference shown in the above table represents the relative cheapness of the Delagoa Bay route as compared with routes from the British ports. There is indeed no means of discovering the relative total costs of transportation by the various lines, but if sea-freight is taken into account, as it should be, it is not absolutely beyond a doubt whether under unified railway management the Delagoa Bay line need be either the cheapest line for the consumer, even in the Transvaal, or the most profitable for the Government; for certain classes of goods it is clear that that would not be the case. The preferences in favour of Delagoa Bay were originally fixed by the Netherlands Railway Company to divert traffic to the line, which being the longest in their own system, gave them the largest share of the freights. A glance at the map will show what an interest they had in diverting traffic to this route. Every ton of imported goods has to be carried to the Rand over at least two railway systems, and the division of the rates between the Administrations though not strictly a mileage division is governed by the relative length of the Cape and Natal systems. The following table shows the number of miles over which consignments of goods from the various ports to Johannesburg would pay rates to the Netherlands Company, as compared with the number of miles over which rates would be payable to other systems :—

| From—                | Number of<br>Miles on<br>Z.A.S.M. | Balance of<br>Miles on<br>other Systems. | Proportion of<br>Mileage<br>on Z.A.S.M. |
|----------------------|-----------------------------------|------------------------------------------|-----------------------------------------|
|                      |                                   |                                          | Per cent.                               |
| Port Elizabeth . . . | 49                                | 666                                      | 6·8                                     |
| East London . . . .  | 49                                | 618                                      | 7·8                                     |
| Durban . . . . .     | 178                               | 307                                      | 36·4                                    |
| Delagoa Bay . . . .  | 341                               | 55                                       | 82·5                                    |

During the war the railways of the Transvaal and of the Orange River Colony were in the hands of the military authorities. As soon as peace was declared and the railways were handed over to the civil Government, Lord Milner saw what the inevitable effect would be if the Transvaal railways were retained under a separate administration from those of the Orange River Colony, and indeed from the other railways of South Africa. He occupied a triple position, first as High Commissioner, secondly as Governor of the Transvaal, and thirdly as Governor of the Orange River Colony.<sup>1</sup> The powers vested in the High Commissioner by virtue of his Commission are limited to the Colonies of which he is Governor, to Rhodesia and to the Native Protectorates. Owing, however, to the fact that the natural unity of South Africa is not represented in the political institutions of the country, he acts as the Adviser of the Imperial Government on South African questions. As High Commissioner, Lord Milner was interested to secure a fair share of traffic for the Cape lines and the Natal lines as well as those of the Orange River Colony and the Transvaal. As Governor of the Orange River Colony he was interested in obtaining such a proportion of traffic over the Orange River Colony lines as would secure for that colony an adequate share of the railway revenue. As Governor of the Transvaal it was his duty to see that the Transvaal railways were run to the fullest advantage of the people of the Transvaal; and a glance at the map will show that the Transvaal revenues were best served by carrying goods over the Delagoa Bay line as opposed to Natal, and by carrying goods over the Natal line as opposed to the Cape and Orange

<sup>1</sup> See Minutes of Inter-Colonial Railway Conference of February, 1905, p. 73: "The President stated that as High Commissioner he could not help taking account of the interests of all South African Colonies. He wished to be absolutely impartial."



River Colony lines. In other words, his duty as Governor of the Transvaal was in direct conflict with his duty as Governor of the Orange River Colony, and with the responsibilities which as the High Commissioner, he felt towards the interests of all British South Africa.

It was not in Lord Milner's power to unite all the railway interests, the only step which could have reconciled all these conflicting responsibilities, but he did all that in the circumstances it was possible to do by amalgamating the Transvaal and Orange River Colony railways. It will be seen at once that, unless the railways of the inland Colonies had been united under the Inter-Colonial Council, the Orange River Colony and Cape Colony would have found themselves face to face with the situation which led to the closing of the drifts in 1895. To have asked the separate Transvaal railway administration, on sentimental grounds, to encourage traffic to come in by a route which gave them a haulage of 49 miles, instead of by routes which, while being shorter in themselves, gave the Transvaal railways a haulage of 178 and 341 miles respectively, was out of the question.

The union of these two railway systems was a bold attempt to minimise to the people of South Africa the results of their division into separate colonies. So long as the railway system of the Transvaal stood alone, its interests were as diametrically opposed to those of the Orange River Colony and Cape Colony as those of the Netherlands railway had been. This monstrous state of affairs was the direct result of frontiers arbitrarily ruled across the map of South Africa between sections of one community, which corresponded to no real political or physical lines of division. By uniting the railways of the two inland Colonies Lord Milner wiped out one of those lines of division so far as transport was

concerned and created a new system, the traffic interests of which were somewhat less difficult to reconcile with those of the Cape Colony and less inseparably bound up with those of the foreign port. The new system provided a route to Johannesburg from the Cape ports in which the C.S.A.R. was interested to the extent of 55 per cent. of the mileage as contrasted with the 7 per cent. of the mileage in which the Netherlands Railway Co. had been interested. It is of the utmost importance to realise at this moment, when the whole question of the union of these two systems is about to be opened for reconsideration, that their severance must inevitably place the various States of South Africa once more in that position which almost led to war in 1895. Whether the railways of the Orange River Colony are run as a separate system or reunited to those of Cape Colony, a situation will be reproduced in which the railway interests of the Transvaal will be turned in the direction of Durban and Delagoa Bay. A direct governmental interest will be added to the commercial and industrial interests which are concerned to divert traffic from the lines of Cape Colony and the Orange River Colony.

By wiping out the one inter-colonial boundary under his control, Lord Milner did no more than diminish the evil. Even when the two systems were united, it still paid them better to pass traffic through the foreign than through the British ports. This may be illustrated as follows. If in the calendar year 1905 the whole of the traffic, which reached Johannesburg and Germiston through British ports, had been imported through Delagoa Bay, the gross receipts of the C.S.A.R. would have been swelled by some £200,000. It is not suggested that their net profits would have been increased by a similar sum. In such a hypothetical case the effect in working costs cannot be worked out with any accuracy.

But without doubt the net profits would have been increased by a very large sum. And further the tonnage to Johannesburg and Germiston is not nearly the whole of the tonnage to the Transvaal, so that the above sum by no means represents the total amount of gross receipts lost to the C.S.A.R. by the use of the British as opposed to the foreign port in that year. It need scarcely be pointed out that it is only because the railway administrations are disunited that the C.S.A.R. has so great an interest in exploiting Delagoa Bay. Under federation the gross receipts, on whatever line they were earned, would go into a common pocket, and the Transvaal and O.R.C. would have an equal interest with the other Colonies in traffic coming through British ports. Similarly of course, as far as revenue is concerned, the other Colonies would have an equal interest in the receipts earned on the Delagoa Bay line.

In other words no final remedy is possible so long as the through lines in British territory are managed in separate sections cut up by political accidents of the past in a manner utterly at variance with the natural conditions of railway administration. To reconcile the interests of British South Africa with one another it will be necessary to wipe out not one but all the boundaries, and to run the railways as one transport system for the service of the whole country.

In no case, however, could the device of the Inter-Colonial Council avail to neutralise the inevitable consequences of the *modus vivendi*. The harbour authorities at Delagoa Bay at once set to work to improve the defective landing facilities which prevented their reaping the full advantage of the preference accorded them under the agreement. To avoid lengthy statements, diagrams are attached\* showing the pro-

\* Not reproduced.

portions of trade which have fallen, year by year, to the Cape, Natal and Portuguese ports respectively since the year 1895.

After the war the real nature of the position forced itself so rapidly upon the attention of the coast Colonies that, at the end of 1903, the Natal Government asked for a Conference with a view to discussing the question of the amalgamation of all the railways of South Africa. Lengthy correspondence ensued, and the original proposals of Natal fell through; but it was ultimately arranged that a Conference should meet to discuss some arrangement of rates calculated to arrest the rapid diversion of trade to Delagoa Bay, which was taking place. The Conference met in February, 1905, but it was a Conference with power to settle nothing. It was convened simply for the preparation of some new arrangement which could afterwards be recommended for acceptance, not merely to the various Governments of British South Africa, but for the approval of the Government of Portugal itself which was essential to the carrying out of any proposals.

The records of the discussions which took place at that Conference show that any modifications of the existing arrangements calculated to give relief to the Cape ports involved a sacrifice of the revenue interests of the Transvaal. It is astonishing that, in the circumstances, any arrangement was arrived at at all. The Conference, indeed, resolved that the sacrifice of public revenue involved by the proposed reduction of rates from the more distant ports instead of to the nearer port, should be distributed *pro rata* over the various systems; but all the Transvaal delegates refused to record their assent to this proposal. That the principle of a reduction in the existing preference accorded to Delagoa Bay was agreed to at all was due to Lord Milner, who threw his whole influence into the

scale on behalf of better treatment for the British coast Colonies. As it was, a minority of the Transvaal delegates voted against the scale of reduction which was adopted.

But these resolutions were not binding on any of the Colonial Governments, still less were they binding on the Portuguese Government; and the next step was necessarily to induce the Portuguese Government to consent to the modification of the *modus vivendi*, so far as to accept the principles embodied in the resolutions of this Conference. The duty of making a new arrangement between the four British Colonies and the Portuguese Government at Lisbon was remitted to the Foreign Office through the Secretary of State for the Colonies, and since that time the negotiations have continued with the Portuguese Government and also with the Governments of all the British Colonies concerned.

It is impossible to carry further any detailed account of the subsequent history of the negotiations, without referring to facts and documents which are not as yet public property. The gist of the whole situation, however, lies in this. Anyone who has had experience of such negotiations is aware that it is not practicable for one party to take a cut and dried scheme, formulated in its own interest, and expect a foreign Power to accept it without suggesting modifications. The records of the Conference itself show that its resolutions embodied nothing but a compromise on the part of the British Colonies themselves, which could only be arrived at by considerable concessions on the part of each party to the Conference at the close of its proceedings, as compared with the original position adopted by it at the outset. This compromise is then taken by the British Minister to the Portuguese Government, and must, in the nature of things, become the subject of further compromise. On the other hand, if the Portuguese Government



suggest, as they are entitled to suggest, any modification in the new arrangement formulated by the Conference, that proposed modification has to be referred to three different administrations, who are at once thrown into antagonism with one another, and much of the work of the Conference of February, 1905, has all to be done over again. But even if Portugal did express her willingness to accept the original terms, she would still have to be told that they were not binding on the South African Colonies until they had been specifically accepted by their various Governments. Any one of the three administrations might render nugatory all the negotiations which have taken place, first of all at the Conference, afterwards between the High Commissioner and the Governor-General of the Moçambique Provinces, between the British and Portuguese Foreign Offices, and again, between all the different South African Governments with regard to the modifications suggested by the Foreign Office. Under circumstances like these it will be a great marvel if the results aimed at by the Conference of February, 1905, are in any measure attained.

The *modus vivendi* is only one of the many difficulties arising from the division of the railways which has set the people of South Africa by the ears. The programme of New Construction carried out by the inland Colonies has produced a crop of disputes between the various administrations, and the time wasted and the bitterness provoked have been out of all proportion to the importance of the issues at stake. This programme has to a large extent consisted in the completion of links joining various through routes one with the other. Before the war the only connection between the lines of Natal and the Orange Free State was through the Transvaal and the system of the Netherlands railway. Or again, to reach Kimberley from the Transvaal by rail

the traveller was obliged to travel round three sides of a rectangular figure, instead of across one. The Delagoa Bay line climbed over difficult gradients and then fell to Pretoria a thousand feet below the ridge of the Rand, over which it must climb again, before it could reach the mining district to which the greater portion of the goods entering through this port are consigned. The remedy for this second defect was a line uniting Witbank with Brakpan. An improvement could be made in respect of the first as well as of the second defect by carrying the line which now joins Springs to Breyten and Swaziland to meet the line which the Portuguese are carrying to the Swaziland border. This railway would be practically as short in distance, and the gradients would be easier than those of the existing line.<sup>1</sup> The greater part of this new construction has now been carried out. Durban is in direct communication with Kroonstad and Bloemfontein *via* Ladysmith, Van Reenen's Pass, and Bethlehem; Johannesburg has been linked to Kimberley *via* Klerksdorp and Fourteen Streams; and Witbank is directly connected to the Rand by Brakpan. The completion of these links has, in every case, produced results which have brought the Governments of South Africa into controversy and has provoked no little bitterness between the communities they represent. The agreement with the Government of Cape Colony relating to the Klerksdorp-Fourteen Streams connection was such as to transfer to Port Elizabeth a quantity of trade which had previously entered the Western Transvaal through Durban and Delagoa Bay. On the other hand, the effect of the opening of the Bethlehem-Kroonstad line was to restore

<sup>1</sup> It is a moot point, however, whether the improvement would justify the sacrifice of the capital invested in the existing line from Delagoa Bay to Witbank which would be rendered obsolete and useless so far as the great bulk of the traffic is concerned.

to Durban a portion of the Orange River Colony trade, which, since the opening of the main Free State line, had fallen to Port Elizabeth and East London. In the latter case the Cape Government endeavoured to neutralise the diversion of trade to Natal by cutting down the rates on their own section of the lines, as far as Norvals Pont and Bethulie, to such a figure that the merchants of Port Elizabeth and East London would find themselves on a footing of equality with those of Durban as far north as Kroonstad. Both the coast Colonies gave notice of their intention to cut rates. Natal threatened a corresponding attack on the Klerksdorp-Fourteen Streams agreement, and the result would have been seen in a rate war between two British Colonies, which must have proved disastrous to South Africa and might have produced further results which it had been impossible to foresee. The rates from Delagoa Bay over the new Witbank-Brakpan line have been the occasion of a third controversy. The completion of these links in the general railway system of South Africa made itself felt with far greater effect hundreds of miles away in the two coast Colonies than in the two inland Colonies, within whose territories the whole of the lines in question have been built, with the exception, in the case of the Klerksdorp-Fourteen Streams connection, of two miles beyond the western border. Railways resemble nerves in the human system, and may, if disturbed in one part, produce paroxysm, or even paralysis, in a different part of the body, so that an operation on another organ may have unforeseen effects on the hands and the feet.

It will thus be seen that the railway system of South Africa although owned by States and subject to the drawbacks of State management, is subject to many of the defects which arise from internecine competition between competing railway companies. The various

sections into which it is split up are owned not by shareholders scattered over the whole world, but by the citizens of local communities who are kept thereby in a condition of chronic hostility towards each other. From the national point of view the result has been calamitous, for it has developed a port outside British South Africa at the expense of her own ports and introduced the foreign complications of continental Europe into the domestic affairs of this country, as shown by the fact that matters which involve the relation of one South African Colony to another have now to be dealt with by the Foreign Office of the Imperial Government.

Above all men who have founded nations, fame has set George Washington in a place by himself, for the history of the American people stands in perpetual witness of his surpassing patience, foresight and resolution. As noticed above, the relations of the American States immediately after the war of independence had many points of resemblance to those which now exist between the Colonies of British South Africa. The following account will show how close in some respects the resemblance was :—

<sup>1</sup> In the early spring of 1785 a modest but memorable meeting took place at Washington's country seat of Mount Vernon, between representatives from the States of Maryland and Virginia. The occasion was a conference in regard to waterways between the eastern settlements and the western unpeopled land lying in the valley of the Ohio and to the north-west. The greater portion of these vast territories had been ceded to the Federal Government by the various States who claimed them under their charters or by virtue of a nominal occupation. To the south North Carolina stretched out in a wide strip to the banks of the Mississippi. Her western population being something more than nominal, had refused to be included in the cession and after an unsuccessful effort to form themselves into a separat state under the name of Frankland, had been compelled to return to their old allegiance.

<sup>1</sup> "Alexander Hamilton," by F. S. Oliver, p. 138.



Development of the Western country was one of the great dreams of Washington's life. He foresaw the importance of these possessions at a time when few men were willing to give them much thought. They were the fruits of the great policy of the elder Pitt, in which as a youthful soldier, Washington had borne a distinguished part. What the Treaty of Paris in 1763 had secured to Britain, another Treaty of Paris, in 1783, had divided between Britain and the victorious Colonies. This rich inheritance it was his fixed determination to weld into the Confederacy. By speech and correspondence he had pressed the matter upon his fellow-citizens even before peace had actually been signed; and throughout the whole of the turbulent period which ensued he continued to urge the need for development and for the firm attachment of this estate to the rest of the Union. When these means proved inadequate, being a practical man, he founded a joint-stock company to open up communications.

Even the peculiar advantages of this territory appeared to Washington to contain some not inconsiderable dangers. The splendid waterways of the Mississippi and its tributary streams were not an unmixed advantage, seeing that the mouth and the lower reaches were in the hands of Spain, who also extended a shadowy claim to the whole western bank and to the unknown region beyond. The easiest course for the new settlers was to drift their produce down the broad current to New Orleans, and the dread of Washington was lest this tendency might induce "a habit of trade" with a foreign power; an intimacy and a mutual interest which in the end might lead to a detachment from the Union. Consequently, at a time when the chief matter of political anxiety with regard to the Western lands was the menace of Spain against the free navigation of the Mississippi, he was more concerned to develop the natural trade routes from east to west by clearing the waterways of the James, the Potomac, and the Ohio, and by the construction of a system of supplementary canals.

It was for the adjustment of certain differences, and to procure the co-operation of the two States, whose sympathies had already been enlisted in this enterprise, that the meeting took place at Mount Vernon in March, 1785. As the delegates had come together in a businesslike and peaceful spirit, other matters of mutual interest were brought tactfully under discussion—the advantages of a uniform currency and system of duties; the need for a general cohesion and mutual support among the confederated States. Under the spell of a great character prejudice was for the moment forgotten, and invitations were issued to Pennsylvania and Delaware to join



in the discussion. But good feeling expanded even further—once started on the course of reason it was easy to urge it forward—and it was ultimately decided to propose to all the thirteen States that in the autumn of the following year (1786) they should meet at Annapolis to discuss the whole commercial situation.

If the father of the American people rose from the dead he could not tell us more clearly than this what his attitude of mind would have been in facing the present position in South Africa. Rather than use American trade to develop a Spanish port on his frontier this man was prepared to change the course of nature itself and to convey the traffic of the Mississippi by canals to the sea through American ports at the mouth of the Potomac. Such sacrifice he thought that it became America to make for the sake of her future safety and union. More remarkable still is the fact that this project led to the union of the States under one National Government, which was able to overcome the difficulty without cutting the canals. Such is the imagination, the force of will and the capacity for sacrifice needed to make a nation, and if South Africans propose that end for themselves they must pursue these difficult questions with a like purpose and the same indomitable courage.

It is instructive to compare the policy of Washington with that which has been adopted in South Africa. The people of South Africa are in fact largely using their resources to develop a foreign country instead of their own. True it is that that foreign country is one towards which all South Africans entertain feelings of cordial respect, friendship and alliance. Still the first duty of patriotism is towards one's own country. A government of united British South Africa could safeguard the legitimate interests of its own ports, without depriving the allied port of its legitimate share of trade or its own inland markets of cheap transport.

In discussing the relations of the Transvaal and the Orange Free State in railway matters previous to the war, the remark was made that one State cannot go on making a visible and continuous pecuniary sacrifice for another State merely on grounds of amity and friendship. On the other hand, history has shown that separate States when combined in one union are capable of sustaining a policy involving heavy and protracted sacrifice for the sake of a national idea common to the whole. The Canadian Provinces are a case in point.

<sup>1</sup> Owing to geographical conditions the fiscal policy of Canada was affected by political considerations earlier than that of Australia or New Zealand. The withdrawal of the preference long enjoyed by the Colonies in the British market was compensated, for Canada, by the treaty of reciprocity with the United States (1854). But when this treaty was terminated by the Americans, in 1866, a staggering blow was dealt to Canadian trade, which by that time had adapted itself thoroughly to the American market. In the prevailing opinion the whole question of the Canadian future was involved. It was notorious that free access to American markets might be secured at any time by the transformation of the Canadas into States of the American Union. To the greater part of the agricultural and commercial community "annexation" seemed then, and for long afterwards, to be the only means of securing the market facilities in default of which no development of Canadian resources could take place. The fact that an alternative policy was discovered and adopted was due, not to any Canadian national sentiment, which then hardly existed, but to the faith and energy of the old Loyalist instinct, which had been cherished by descendants from the exiles of the American revolution. The counter move to the demand for "annexation" was the movement towards the confederation of the provinces; and, when at length that was accomplished (1869), the inauguration of a protectionist system was significantly called the "National Policy." It was the hope of Sir John MacDonald's party that these two measures in conjunction eventually would make the industry and trade of the Canadian people, like that of their American neighbours, largely independent of foreign markets; by creating manufacturing centres to supply the

<sup>1</sup> "Studies in Colonial Nationalism," by Richard Jebb, p. 214.

needs of the rural population, and in turn affording the farmers urban markets within their own territory.

In a new and sparsely populated country protection of manufactures inevitably entails hardships in the form of high prices for a considerable period, until the home market becomes large enough to warrant the organisation and equipment of manufacturing industries upon the modern scale, which is essential to cheap production. Accordingly it devolved upon the Canadian federalists to reconcile the people to the new system by emphasising the idea that the National Policy was one to be judged by its aims and tendency, rather than by its immediate effect; and that the attainment of a self-supporting national existence was a worthier ideal than the betrayal of the strenuous past to the American annexationists. Nevertheless, from a commercial point of view the National Policy was a palpable and doubtful speculation, involving present hardship without any assured prospect of ultimate success; whereas commercial union with the United States connoted the certainty of immediate and lasting prosperity. Under such circumstances the decision of the Canadian statesmen, and the acceptance of the National Policy by the Canadian people, deserves to rank high amongst the examples, increasingly rare in modern history, of material wealth being rejected deliberately for the sake of a patriotic ideal.

It is commonly said that the Transvaal must develop on natural lines, meaning that the bulk of its trade must be brought through Delagoa Bay. Assertions that commerce naturally flows in this channel or that are to be accepted with caution: nor must the fact be left out of account that even conditions of trade which are seemingly natural may be mastered and moulded by the will of a people.

The defeat, in 1891, of commercial union with the United States had been the signal for a redoubled effort to develop the British market as a permanent substitute for the American market; and this policy, begun by the Conservatives, was continued energetically by the Liberals. By improved steamship communications, including especially the provision of cold storage and a careful study of the market, a great increase was effected in the volume of

\* "Studies in Colonial Nationalism," by Richard Jebb, p. 224.

Canadian exports to Britain. Within ten years the United States had definitely given place to the mother country as the chief customer of Canada. Nationalists, seeking to establish an economic basis for independence, urged that Mr. Goldwin Smith and other commercial-unionists were wrong when they maintained that the "natural" direction of Canadian trade was north and south. Nature herself, it seemed, had provided for the political situation, when she made one great waterway of the continent run from north to south, uniting the States, and the other from east to west into the Atlantic, drawing Canada towards Britain. In fact the natural direction was the same as that of the St. Lawrence parallel to the direction of the American export trade. The products of the continent were similar on each side of the international boundary, and, so far from being complementary to each other, were competitors for the British market. Hence the latter was the market which it concerned Canada to develop.

These instances are quoted in order to show what sacrifices have been proposed and made in the North American continent for the attainment of National Unity. In this country no such sacrifices are demanded. As will be seen in discussing the economic aspects of the question the union of the railways in one system means that the railways must cease to be used as an instrument of taxation or local protection, and be run as a whole at cost price on their merits. Hence the union of the railways, apart from the economies which could be effected in working, means in fact a reduction of rates to the Transvaal. For these reasons I do not believe that national union of the railways involves any real loss to the northern Colony; but even if a sacrifice was required, I cannot doubt, looking at the past, that the people of the Transvaal would face it, for the sake of ending, once for all, the exceptional evils which disunion has inflicted on South Africa.

It has ever been the deliberate policy of the mining industry to establish a community on the Rand by placing with local merchants every order that could be so placed, instead of buying direct through agencies in

Europe and America. It was not contended that this was done solely on the ground of cheapness, but because the establishment of a strong commercial interest in the country was seen to be the wise and patriotic policy. The observance of this practice in the past is greatly to the credit of the men who have controlled the mining industry. But it must not be forgotten that this trade affects the ports of British South Africa just as directly as the commercial community of the Rand itself. The general well-being of Cape Colony and Natal is affected by the prosperity of these ports in just the same way as the Transvaal itself is affected by the prosperity of the commercial interests of the Rand. The mischief of the situation lies in the fact that no one parliament assembles where members of the Transvaal can meet face to face with members from the coast, hear what the diversion of trade to Delagoa Bay means to the British South African ports, and tell them what it would mean to the mining industry and what to the trade that industry creates if 90 per cent. of the natives employed underground were withdrawn, so that some plan to meet the difficulties of both could be devised.

I have not hesitated to set forth the magnitude of the difficulties which have to be overcome in any attempt to unite the railway systems of South Africa, although I have not been commissioned by the people of South Africa to suggest to them how these difficulties may be overcome.

### PART III.

#### RESULTS OF DISUNION ON THE FISCAL POLICY OF SOUTH AFRICA.

In one respect the British Colonies of South Africa have succeeded in effecting union of a kind, namely, in the matter of their fiscal policy. It is instructive to trace the gradual process by which this union has come



into existence. When the Orange River Sovereignty was cut off from Cape Colony, and established as an independent republic, its imported supplies were drawn through the Cape ports. Had the Sovereignty remained united with the Cape territory, whether as one State or under some form of Federal Union, the Customs duties leviable at the ports would have been expended on the administration of the whole country south of the Vaal River. When, however, the territory between the Vaal and Orange Rivers was erected into a separate and independent State, the whole of those revenues were retained by the Cape Colony, and spent for the benefit of her own territory south of the Orange River. Natal adopted exactly the same attitude when goods began to reach the inland States through her territory, and retained for her own benefit the whole of the Customs collected on the imports. Bearing these facts in mind, we need not wonder that the Transvaal hailed the decision of Marshal MacMahon which secured the Portuguese in the possession of Delagoa Bay as a promise of deliverance from what she considered to be unjustifiable exactions levied upon her.

Here, again, the consequences of violating the natural unity of South Africa began to assert themselves. The political divisions did not correspond to the facts; with the inevitable result that one section of the population taxed another without the consent of the section which was taxed. The first problem, therefore, which the Transvaal had to solve was to obtain supplies free from the toll levied by the coast Colonies; and hence it was that the Republic cast such wistful eyes towards Delagoa Bay. The project of building a railway to Delagoa Bay was first brought within sight by President Burgers, himself born a citizen of the Cape Colony. As soon as Delagoa Bay was secured to Portugal by the MacMahon arbitration, he made a treaty with Portugal, surveyed

the railway line, and raised a certain amount of capital for the purpose of constructing it. For the time, however, the project miscarried, the country was plunged into bankruptcy, and annexation followed in 1877.

In 1882 the Cape Government recognised in principle the injustice of retaining the Customs duties on goods which were merely passed through their own territory by undertaking to make good out of Customs revenue to a certain amount any short-fall between revenue and expenditure in the administration of Basutoland which was then first undertaken by the Imperial Government. In 1884, owing to competition from Natal, the Cape Government rebated to consumers on goods going through to the inland States the difference between the Cape Colony and Natal duties. The consumer, therefore, derived some relief. The finances of the inland Governments, however, obtained no direct relief whatever. In 1886 Natal also adopted the rebate system, owing to the increasing pressure of competition with Delagoa Bay.

In 1888 an abortive Customs Conference took place in Cape Town between representatives of Cape Colony, Natal, and the Orange Free State, the Transvaal declining to take part. In 1889 another Conference was held at Bloemfontein which, owing to the efforts of Sir Gordon Sprigg and President Reitz, resulted in the establishment of a Customs Union between Cape Colony and the Orange Free State. Under this arrangement the Cape retained a transit or collecting charge of 25 per cent. Basutoland was admitted to the Union in 1891, and the Bechuanaland Protectorate in 1893. In 1896 this Convention was amended and renewed between the same parties as before, Natal having withdrawn after the preliminary discussion. In 1898 a new Convention was made, to the terms of which the delegates from Natal agreed, and the collecting charge was reduced to

15 per cent. The Cape Legislature, however, failed to ratify the Convention until the second session to which it was submitted, and it did not come into force, therefore, until January, 1899. The position at that date may be briefly summarised as follows: Cape Colony, the Orange Free State, Natal, Basutoland, and the Bechuanaland Protectorate had entered into a Customs Union. Southern Rhodesia had entered into an agreement of the nature of a Customs Union with Cape Colony. Goods to the Transvaal were allowed to pass through the territories of the coast Colonies subject to a transit rate. These arrangements were, of course, dislocated by the war; but in 1903 a Customs Union was established, including the Transvaal and Southern Rhodesia. The transit rates were abolished, and the charge for the collection of duties at the coast was reduced to 5 per cent.

By 1905 the effects of financial depression were felt in almost every Department of South African society. Permanent alterations of fiscal policy were necessary to enable Cape Colony and Natal to meet the deficits which they had been facing since the war. Notice to terminate the agreement was given by Natal, and a Conference to consider the whole matter was fixed for March, 1906. In the meantime each Government proceeded, after consultation with local interests, to formulate a programme to put forward at this Conference, looking, of course, to the interests of its own particular section of South Africa. The first obligation of each was to its own constituents; to consider what policy would tend to the advancement of all South Africa was the special duty of none. I must, however, state that as soon as the Conference met, the interests of the country as a whole were uppermost in the minds of the delegates, as they would be in the minds of a South African Parliament. This disposition, however, was

checked and crippled by the sense that they had each and all to return to communities which would view the decisions of the Conference in the light of local interests, and might cancel and repudiate all they had done.

The Conference was composed of twenty-five delegates from the South African Colonies, the British Consul-General at Lourenco Marques, three delegates from the Portuguese Government, with myself as President. Added to these were some ten technical advisers, and the secretaries and other officials of the Conference. Thus, for three weeks many of the busiest and most responsible persons in the country laboured incessantly, not to harmonise the programmes of the different States, for that was impossible, but to arrive at such a mixture of the various ingredients of the conflicting programmes as each and all would consent to swallow.

The proceedings of the Conference were private, and when it was closed the strictest secrecy as to the nature of the results produced had still to be observed by some forty persons for several months. The new Convention had then to be carried through five different legislatures, and each of these public assemblies were told that they might discuss the details, but they could not be allowed to alter one of them. The Convention was cut and dried, and they must each and all take or leave it as a whole.

Compare this procedure with the process by which a Customs tariff would be framed in the United Kingdom, if the Government had decided to embark on a new fiscal policy. To begin with, it is probable that either the Government would appoint a Royal Commission or Parliament itself would appoint a Select Committee to investigate the question, and the whole proceedings of that body would be open to the public; the evidence placed before it would be the subject of public discussion. When the actual proposals were framed, they would be

framed by the Government itself, and the greatest attention would, of course, be paid to the claims of each business and industry, and also to the views put forward by the various interests and parts of the country. The business community of London would have one point of view; the manufacturing communities of Lancashire and the agricultural interest of the rural districts would probably have another; but in the last resort the Government would pronounce between them and, assuming that it had a working majority in the House of Commons, the Legislature would support the Government. If not, a new Government would be called to office competent to decide finally between the contending parties.

At a South African Customs Conference there is no such power. The Conference is only held together by dread of the consequences of failure to effect a convention at all. But at any moment a deadlock may be produced by the refusal of one of the parties to the Conference to acquiesce in the will of the majority. The withdrawal of certain members from the Conference might practically ruin the efforts of the whole.

A Customs tariff framed by His Majesty's Government at Westminster would represent a deliberate policy, a policy of the majority of the people of the country; and it would be conceived as a whole in the best interests of the whole country, so far as the Government was able to perceive and understand them. A certain element of compromise, as between one interest and another, would, of course, enter into the composition of such a tariff, but that element would only be a secondary consideration.

In a South African Customs Conference the paramount consideration is to get one tariff for the country and no more than one, and to attain this object there must be compromise from beginning to end. The



result is a mixture of opposing principles, and indeed, as I have said in discussing the subject above, a mixture of different tariffs framed by different Governments on wholly different lines. The result is that it is based on no intelligible policy, and is governed by no general principles.

A Customs tariff framed as a treaty between independent States must not only be a compromise, but is likely to be one which its authors know to be in some respects bad in itself. Cases occur in which the representatives of one State are convinced by those of another that some change in their programme would be to the general advantage. They know, however, that the public in the State they represent, not having before them the new reasons which have led to a change of opinion in their own minds, will repudiate such a concession if made. They cannot, however, break up the Conference, go home and place the matter in a new light before the interest concerned, and they are forced, therefore, to insist on some provision which, as they now believe, is likely to be mischievous in its effects.

So far the conditions under which the details of a Customs tariff would be framed by the Government of a democratic country have been compared with those under which it is framed by way of treaty between independent Colonies in South Africa. The proceedings of both must be secret until the measure is introduced to the Legislature or Legislatures as the case may be. Up to this point secrecy is essential in both cases, because publicity while the duties on the items were still unfixed, would lead to speculation. But in the case of an ordinary Government, the items of the scheme submitted to the Legislature are each and severally genuine proposals for their consideration. The Government is, in fact, prepared to accept amendments and modify the details of their scheme, in view of

considerations urged upon them in debate, so that the measure is, in fact, settled, not merely as a whole, but in all its details by the direct representatives of the people. The debate, therefore, becomes a vigorous reality, and is a real means of public instruction.

In South Africa, on the other hand, the Legislatures are precluded by the conditions of the case from touching the details. If the Conference succeeds in producing a unanimous result, the scheme is taken as a whole, and submitted to the various Legislatures of the country, simply for acceptance or for rejection. Whatever may be the constitutional law on the subject, the elected representatives of the people have in practice no power to modify the details because the alteration of one item by one State would, unless agreed to by all the others, render the whole scheme unworkable, and be tantamount to rejection by that State. The members of the Legislatures know that the scheme must be taken or left as a whole.<sup>1</sup> The debates, therefore, so far as details are concerned, lose their vitality, and do little to enlighten public opinion.

So long as South Africa is partitioned into independent Colonies, and unless those Colonies dissolve their present commercial relations, and relapse into an attitude which, in practice, would be one of mutual hostility, the fiscal policy of her people must be conducted, not on the legislative lines, which are proper to such business, but as a matter of diplomacy. The details upon which the whole depends, and which ought to be settled, and which could be settled by the representatives of the people themselves, are taken out of their hands. It is difficult to imagine a less democratic, or indeed a more dangerously undemocratic, method of dealing

<sup>1</sup> The request of the Transvaal Government, made at the instance of the Legislature, that the other Colonies would consent to a reduction of the wheat and flour duties, led to no result.

with one of the most important departments of public business.

The evil, to prevent which methods like this are endured, can be understood by anyone who will picture to himself the condition of affairs which would exist in South Africa as it is to-day if the Customs Union were suddenly dissolved. At present railway rates and other principal sources of friction between the States are handled by the executive governments. These disputes are conducted behind the scenes. Great reticence is observed, and in the interests of the general peace the public servants of this country are striving to damp down latent hostilities. But the moment that each separate Parliament began to frame its own Customs tariff it would look to none but the interests of its own people. In some respect or other those interests would conflict with those of their neighbours, publicity would render compromise impossible, and fan smouldering animosities into a flame. Very quickly South Africa would be plunged into a Customs war, which would necessarily be accompanied by a rates war. Business would be reduced to a mere gamble, and States, as well as merchants, might quickly be forced into liquidation. It is only a sense of the catastrophe which might wait on the failure of a Customs Conference that drives responsible men in each Colony to struggle for union of some kind, and to submit to a procedure involving an infinite waste of labour and, what is worse, unnecessary sacrifice of genuine conviction. Any self-respecting man, whether a protectionist or free trader, would far sooner be voted down in a national parliament than be obliged to compromise his convictions away to avoid a general catastrophe.

Later on there will be occasion to notice the mischief caused to the business interests of the country by fluctuations of fiscal policy. The best security, for any

country which has a tariff, against constant alteration of its items is to be found in the control which an informed and educated public opinion exercises over the Legislature, and in the fact that the items of the Customs tariff, as well as the tariff as a whole, are, in the first instance, dictated by such an opinion. In countries like the United Kingdom, Canada or the United States of America, the fact that the details of tariffs have to be justified before, and accepted by, the representatives of the people, after public discussion in the national assemblies, is the best possible means of educating the public mind and of ensuring that there shall exist in the country an informed and intelligent public opinion on the subject. It ensures, indeed, that there shall be a real public opinion, and that, if that opinion changes, it will change gradually and on continuous lines, and not oscillate and alter by fits and starts. But even if each separate community in South Africa were enlightened by a searching discussion of the measure in detail, this would, under existing conditions, do little to foster sound public opinion because the discussion would not be common to the whole country. Each community attends only to the debates of its own Legislature which is necessarily local and one-sided in its point of view. It is incapable of appreciating the benefits which other Colonies obtain from the convention. Its mind is so concentrated on the disadvantages of the measure to itself that any of its advantages either to itself or others are lost to sight in a passion of ignorance and suspicion. The consequence is that when the fiscal union is attained it meets with general dissatisfaction, dissatisfaction so great that, if the Customs tariff is adopted at all by the separate Legislatures, it is generally only because a small majority of the members dare not incur the responsibility of the consequences which rejection might involve to the



credit and solvency of the country. At the same time the public dissatisfaction is active and continuous and constantly operates to create the impression that the Customs Convention cannot last, and, indeed, I am convinced that no Customs Convention can be of long duration, either in its details or as a whole, unless and until it is understood and approved by an educated and intelligent public opinion.

The argument has been directed to showing that the fiscal policy of South Africa must be subject to serious defects so long as it is framed by the vicious procedure of a Conference between independent States. If, however, the facts are closely examined it will be found in practice to be impossible to devise an equitable measure so long as the revenue from Customs is paid, not into a common budget, but into the pockets of the various Colonial Governments. The division of revenue among the Colonies means, in many cases, that one Colony reaps most of the gain and another suffers most of the loss which accrues from the imposition of a particular duty. The Transvaal and Orange River Colony, for instance, produce no sugar and have, therefore, nothing to gain from a protective duty on the cultivation of cane. Natal produces sugar but not enough to supply the South African market; she further protects her own products by a system of preferential rates, and in this way discharges her own sugar on the inland Colonies and largely lives herself on imported sugar. Most of the high duty paid on this sugar goes into the Natal Treasury, so that while the tax on imported sugar raises the price to the inland Colonies, little of its proceeds reaches their treasuries.

Again if South Africa were united, the Customs revenue would all be gathered into her common purse. As it is an elaborate machinery involving a positive waste of public funds must be maintained in order to



secure that the duty is received by the Colony where the goods are actually consumed. Such inconveniences are by no means limited to the Customs revenue. Natives are constantly moving across the Transvaal border because native taxes there are heavier than in the neighbouring territory. Similarly the various taxes on general dealers levied in different parts of the country have produced serious inequalities in matters of trade. Commercial travellers must pay licences of varying amounts in each Colony, and a patentee to protect himself throughout South Africa must register his patent and pay fees not once but at least five times. The duties paid on the establishment of a company accrue to the Colony in which it chooses to register itself, without regard to the part of South Africa in which its actual operations are carried on.

Under a Federated Government these anomalies would of course cease to exist. So long as the States remain separate it passes the wit of man to frame a fiscal policy for them all which will not yield results like this, or to produce the benefits of union where the principle of division is maintained in fact. The clumsy methods of public business devised to get round these difficulties while serving to cloak the unnatural disunion of South Africa are miserable makeshifts when compared to the strong and simple institutions of a nation united as one people.

#### PART IV.

##### DISUNION AS AFFECTING THE NATIVE AND LABOUR QUESTIONS.

The white people of this country must never forget that they are now committed to such a path as few nations have trod before them and scarcely one has trod with success. The task imposed on them is the establishment of a self-contained and self-governing

society on the basis of a race utterly removed from themselves in descent, habits, and civilisation. Australia, New Zealand, Canada and United States of America, with the partial exception of the Southern States, had no such problem to face. The colonists of South Africa have indeed embarked on the most difficult experiment that any young nation could be asked to make. Their task is to lead upwards in Christian civilisation the natives of South Africa, who are in many different stages of development. There is the educated native, whose aspirations must be regarded with wise sympathy, and there are tribes still in the stage of barbarism. Between these extremes there are many grades of development both tribal and individual. In addition there is that great coloured population, which is not native in the above sense, which has its strong infusion of white blood, which contains in its ranks many educated and valuable citizens in whom the work of civilisation is already accomplished, with many others in a more backward state, but to all of whom the whites must manifest the desire to render friendly aid in their upward path. A more difficult or complex problem was never presented to a people, and it is ever shadowed by the responsibility of keeping order in the land and of the defence of civilisation against any turbulent or unruly element in the uncivilised masses. From the moment when the Hottentots drove the Portuguese from Table Bay and slew their famous leader Almeida, this is a question which has presented itself to the colonists of South Africa at every turn. How to secure their own personal safety is the first crude form in which that question always appears, and whenever an attempt has been made to extend the limits of settlement and civilisation the problem was bound to recur in that particular shape. The maxim that native problems lie at the root of all South African questions, contains a large element of truth.

The Imperial Government retained and recognised as their own the ultimate responsibility for repressing disorders in part of Anglo-Dutch South Africa, but declined to extend it to the whole. The primary function of the Imperial Power is to protect from foreign invasion the frontiers of all the countries united under the British flag. The duty of raising, equipping and controlling the fleets and forces necessary for the purpose to supplement and support the local military resources of each part of the Empire rests indeed with the Government of the United Kingdom ; but this merely points to the fact that the institutions of the Empire are still imperfect. The power of control over foreign policy is necessarily attached to the obligation of defence. The creation of political machinery which will enable the Colonies to assume their due share in the control of foreign policy by undertaking their due share of the obligation of defence, is the ideal which more than one Imperial statesman has set as the problem for future solution. But neither now nor at any future time can it be the function of the Imperial authority to maintain order within the boundaries of any community that claims such full privileges of self-government as those which Canada, Australia, or New Zealand enjoy.<sup>1</sup> South Africa has never assumed self-government in the full sense of the word because she has never undertaken, frankly and without reserve, the duty of policing her own territory, and indeed, as Sir George Grey pointed out, she could not do so, so long as she remained dis-united.

While the power of South Africa as a whole to maintain order among her population is well assured, the ability of those Colonies whose white populations are smallest under all circumstances to control unaided all the particular tribes located in each, is open to question. The organisation of a South African force which can be

raised suddenly and moved swiftly to any part of the country implies in itself a federal union of some sort, but unless it is to be as ineffective as allied forces usually are, any defensive organisation common to South Africa means that it must be subject to some common authority answerable to South Africa as a whole.

Such an organisation can be formed without addition to the constabulary or volunteers at present maintained by the various Colonies ; indeed it is probable that the constabulary forces might be reduced when so combined as to render easy their rapid concentration at a point of danger. An efficient body of mounted police, backed by an efficient force of militia or volunteers, a vigorous cadet movement, and a people ready to take up arms in times of grave emergency, is enough for all the needs of South Africa.

But the question of defence is a secondary problem, a mere adjunct and consequence of the primary problem of native policy. It would indeed be a hideous error to suppose that the white people of this country are discharged of responsibility by perfecting an arrangement for enforcing order among the native population. The mission they have undertaken is of a far higher and more difficult nature than that, and one which calls for the inspiration of the statesman rather than the science of the soldier. If South Africans are minded to beget a race that will stand on equal terms beside those which inhabit Europe, North America and Australia, they will need all the strength which unity among themselves alone can give. They must be one people with one purpose guided now and in after times by the foresight of the wisest leaders they can produce. The best faculties of the whole people must be used to direct all their resources in a continuous effort to attain a single and most delicate end.

No one who realises the magnitude of the task im-

posed on this country will doubt that its separation into independent parts is fatal to success from the outset. Such separation means division of national strength in all its forms. It means, what is even more dangerous than this, division of purpose and plan. It means different policies, yielding different results, which, sooner or later, must come into contact and conflict with one another. In this, at any rate, South Africans, who differ fundamentally in their views as to native policy, agree, that two or more native policies, inconsistent with each other, cannot end otherwise than in confusion and miscarriage, and cannot therefore accomplish the results foreseen or intended by the exponents of either course.

No opinion is offered as to the respective merits of the different policies adopted in dealing with the natives by the various Governments. But the fact that there are at any rate five or six different native administrations in South Africa, all of them independent of any one South African authority, is indisputable. All experience goes to show that those administrations will each of them differ, the one from the other, and that different policies applied at the same time in different parts of the same country, to the same races, the members of which are in constant communication with one another, must together defeat the object at which each severally aims. The general result is sure to be something utterly unlike what any one of them was intended to produce, and, proceeding from policies which are inconsistent and causes which are uncontrolled, will be accidental if not disastrous in its effects.

The problem as it presents itself in South Africa is indeed momentous so far as her own future is concerned. The best hope for her success in the exceptional task she has undertaken rests in the positive and unmistakable form in which this problem is presented. The situation



is startling, because it is without precedent. No reasoning man can live in this country and doubt that the existence here of a white community must, from first to last, depend upon their success or failure in finding a right solution of the coloured and native questions, or, in other words, upon the wisdom they can show in determining the relative places which the white, coloured, and native populations are to fill. History will record no nobler triumph than that of the people of South Africa if they extend the hand of sympathy to the coloured people, who are differentiated from the natives by their infusion of white blood, and to the educated native, and if they succeed in peacefully leading on the upward path of Christianity and of civilisation the vast tribes who are beginning to emerge from barbarism.

One solution South Africa left with the undivided responsibility of dealing with native affairs, will never attempt, and that is the introduction of slavery in any shape or form, and for the simple reason that the people of South Africa recognise no less than those of Europe or America the obligations imposed upon them by the ideals of Christianity and of civilisation. Beyond this unhesitating expression of opinion as to where the solution of the problem cannot lie, and will not be sought, it is unnecessary to venture. It is sufficient to say that only when full responsibility is assumed by the people of this country as a whole will the wisdom to foresee, the courage to begin, and the endurance to persevere to the end, without which no native policy is worth calling a policy at all, be summoned into action.

Closely interwoven with the native question is the labour question. As things stand at the moment, the business of the whole country, of agriculture, mining, manufactures and industries of all kinds depends on the number of natives that can be procured and set to work. The scope of these industries in no way coincides with

the five or six administrations amongst which the control of the labour supply, indigenous to the country, is split up. Her local resources of labour cannot be turned by South Africa to the fullest use, until she is able to exercise some measure of general control over all parts of the country. Till then they must remain, as at present, in great part unavailable and ineffective. On every side may be seen the same absence of control over national resources, crippling her development and revealing itself like some radical disease in symptoms so various that it is often difficult to trace them to their common source. As I have said, the labour question affects industries which ramify all over the country. If the mines absorb the available supply, agriculture is arrested. If the development of the mining industry is starved for want of labour, the farmers of Malmesbury lose their markets, the merchants of Natal and the Eastern Provinces their business, and the value of property everywhere declines. But the labour question is handled by administrations which have little or no relation to the scope of these industries. The question is dealt with piecemeal in different parts of the country, with this unfortunate result, that, so long as each aspect of the question is dealt with apart, it cannot in practice be dealt with on its merits. It is as though the labour question, which affects the whole trade of the United Kingdom, could not be dealt with in the Imperial Parliament, but could only be handled by County Councils.

In South Africa, far-reaching questions of national importance come up for discussion in one of several local Parliaments. If the particular quarter of the country where they arise happens, for the moment, to be the storm-centre of the country, all South Africa concentrates its attention upon the place where the question is under discussion. A just sense in the minds of the other communities that they are powerless to make

their opinion felt and that one section is able to prejudice the future of all inflames them to a fever. Bereft of power to act and responsibility for action, political parties throughout the country lose the faculty of deliberate and sober reflection. To whichever side of the dispute men's opinion inclines, prejudice usurps the place of judgment and so distorts their vision and stops their ears, that they become blind to facts and deaf to reason. All this reacts on the community immediately concerned, and there too the question ceases to be handled by either side on its merits. An atmosphere of contradictory alarm is created, in which public opinion becomes demoralised, impotent, and therefore negative. It rebels in turn against every solution proposed. Feeling instinctively how powerless it is to control its own affairs, it appeals to public opinion in the United Kingdom, and from that moment onwards a matter closely affecting all South Africa, which in Canada or Australia would be dealt with at once by the Parliament of the Dominion or Commonwealth, becomes a question for the Imperial Government and perhaps an issue at the elections of the United Kingdom.

On the other hand, a question which affects all South Africa in the most vital manner may be raised in one part of the country, which, for reasons that have nothing to do with the matter in hand, is for the moment somewhat withdrawn from the public eye, and then things are done without criticism which may end by changing the whole complexion of South African society. A question of immense importance may be settled for the whole country for all time, without its knowledge and contrary to its will.

An example of the first tendency is the Transvaal labour question which has now convulsed the country for the last three years. It is much more than a sordid struggle between avarice on the one side and prejudice

on the other. Its intensity is due to the presence of men on either side who feel intuitively that the results of the issue will be felt in every part of South Africa. The one party sees the dangers which may follow a serious collapse of business, the shrinkage of white population, failure to justify the investment of vast sums in the country, damage to the credit of all South Africa. The other side, knowing that a false step in a matter of principle or in the question of population is a mistake that a country can never correct, is in dread lest imported labour for the mining industry may lead to a relaxation of standard or to its extension to agriculture, or even end in the settlement of a vast Asiatic population on the soil of South Africa. Both parties are looking at the question from the South African point of view, and both are animated by the sense of responsibility for the future, which in any country is the most valuable faculty its people can possess. If either party supposed that the effects of whatever action the Transvaal is able to take could be limited to that part of South Africa, the problem though still of very great, would yet be of relatively minor importance. But everyone knows in his heart that in so far as the Transvaal can decide this question at all, its decision will affect credit and may affect the structure of society throughout the whole country. No one who had carefully studied it would suggest that the importance attached to this question was exaggerated. On the contrary, it deserves all the attention that people in this country can bestow upon it, although, as indicated above, the political conditions of South Africa are at present such as to make the consideration of the question by South Africa as a whole on its merits impossible.

When all this is admitted, one cannot fail to remark how inadequate was the attention paid to a similar experiment carried out not many years before in another part

of South Africa, on lines which made it practically impossible for the action then taken ever to be reconsidered. Imported labourers in the Transvaal are, under the existing law, repatriated at the close of their contract. Those in Natal are free to remain and are in large numbers becoming incorporated in the social system of South Africa. In the Transvaal the coolies are limited by law to unskilled labour. At the end of their indentures the Natal coolies are free to compete in occupations of all kinds. But there are two other differences of even greater importance than these. The Rand mining industry is not a permanent industry. Compared with the whole future before this country its life will be as an incident in its history. But in Natal the most permanent and fundamental industry of the country is being established on the basis of Asiatic labour. No natural termination to the experiment is in sight, and the further it is carried, the more serious would be the dislocation and ruin which would result from any attempt to remove the basis upon which it rests. At any moment the Transvaal is free to reconsider the question of imported labour for the mines in the light of experience. Every year that passes commits Natal more deeply to Asiatic labour. Indeed so far has the matter gone that no national government could now reverse the system or would ever attempt to do more than arrest its indefinite extension in the future. Lastly, gold mining is the least competitive of all industries. As a matter of fact, if the Rand mines are worked with imported labour it should be so much the easier for other mines and other industries elsewhere to obtain native labour. If, however, Natal, by the use of cheap Asiatic labour, establishes agriculture, manufactures, and other competitive industries, with such success that she begins to produce more cheaply than other parts of South Africa, in sheer self-defence they also may be forced to adopt



the same expedient. It is hard indeed for the farmers north of Laings Nek to see their neighbours across an invisible line obtaining labour at half the wages which they themselves are obliged to pay, or for manufacturers in Cape Colony to find themselves undersold in the markets of South Africa by the products of factories where cheap labour, which their own law forbids them to hire, is employed.

I am not arguing either in favour of or against the employment of Asiatics on the mines or on agriculture or in the industries of Natal. I am merely concerned here to point to the fact that both are questions in which the future and prosperity of all South Africa, and not merely of one part of it, are involved. I do not myself believe that the labour question as a whole can ever be settled with any finality until it is settled by the country as a whole in a Parliament where all interests and all sections of South African society are represented. Those representatives will quickly apprehend that the consequences of whatever is done are felt in time as acutely 600 miles away as in Natal or as in Johannesburg itself. The decision of such a Parliament would carry with it some sense of finality. For the interests which ask for imported labour a decision in their favour is of little value except in so far as it can be regarded as final. It is not enough for an investor to feel that a supply of labour is available now. He must also have some measure of assurance that it will continue to be available until his money is repaid him with interest. On the other hand, if the decision is to be against them, it is far better for them as well as for the whole country to know it at once and once for all. If all South Africa was united under one Parliament it is clear that, where no principle of Imperial law or policy was involved, questions affecting the whole country would be settled there out of hand,

as they are settled in Canada and Australia. Such a Parliament would beget, what cannot exist without it, an informed public opinion on South African affairs. It would bring into existence a class of men throughout the country accustomed to reflect on questions as they affected it in every part. Above all it would beget a sense of stability and certainty in respect of all the conditions of industry and of business.

## PART V.

### DISUNION AS AFFECTING THE ECONOMIC POSITION.

From the commercial point of view unity implies freedom of trade between the various interests and parts of one country within the limits of its national frontiers. National unity has not been realised so long as the business of one section of the people is artificially protected as against the enterprise of another section of the same people. Each member of the nation, and each community inside that nation, must be free to develop the natural wealth of the place in which they live, and to reap from it such fruits and no others as their own skill and energy can bring its resources to produce. The union of England and Scotland meant freedom of commerce, in law and in fact, between the two. In America in 1785 there was in existence a continental congress in which the separate States were represented, which had been formed as the expression of their united determination to achieve independence and in whose name the war of independence had been carried on, but this congress was the mere shadow and not the substance of union, so long as each of the separate States was protecting its own commercial and industrial interests against those of every other. The constitution, under which America was united in 1788, effected a real union and established America as a real nationality,

because, while ample powers of local government were secured to the several States, freedom of trade between those States and within the limits of the national union, was established by that compact.

South Africa, while attempting to accomplish unity of commercial and industrial development by the establishment of a Customs Union, has not in fact done so. A restricted measure of free trade was established between Cape Colony and the Orange Free State in 1889, and Natal was included in 1898. Meanwhile, a wholly new factor in the economic situation had come into play in the shape of competing railway systems. In America commercial union was achieved merely by the inclusion of all the States in a Customs Union. Railways were not then invented, and when afterwards introduced were controlled, not by the States, but by private companies trading for profit. Had the Government of each separate State undertaken the building of the railways, each would have had the power, and therefore the temptation, to frustrate the intention of the Customs Union by adjusting the railway rates in its own interests, although in certain cases the great waterways would have restricted the abuse of this power. The private railway companies naturally entered into keen competition with one another, and rates were determined to a great extent by such competition, just as they are fixed by competition between the various companies in England. The fixing of such rates was in no way a matter of State policy except in so far as Government interfered by legislation to prevent discrimination as between individuals.

In South Africa before the recent war the railways were owned by the States except in the Transvaal, and even there they were very closely identified with Government policy. Each Government therefore controlled the railway rates on its own system, and held in

its hands means no less powerful, and in many instances more powerful, than customs tariffs for the protection of its own industries as against those of foreign countries or even of the neighbouring States. Between customs tariffs and railway rates as an instrument of protection there is a difference which is all-important. A customs tariff once framed is comparatively simple of application. It consists of certain fixed duties leviable on certain classes of articles at the ports of entrance, and these duties by reason of their comparative simplicity of application can be laid down in the form of a law by the Legislature of the State. Railway rates on the other hand are of the nature of payment for services rendered. They require constant adaptation to changing circumstances. Even the simplest railway tariff involves a minuteness of detail and a flexibility in adjustment quite incompatible with the nature of a Legislative enactment. The fixing of railway rates is therefore, at any rate within wide limits, in practice left to the executive government and as a consequence it lies within the power of the executive, by an adjustment of railway rates, to protect its own interests as against those of other members of the Customs Union. A Government which administers its own railways is always exposed to an accusation by one section of the community that it is endeavouring to give an unfair advantage to another section, and the tendency is accordingly to adopt a rigid uniformity in regard to rates which detracts very seriously from the efficiency of the services rendered by the railways to the commerce and industries of the country. To avoid this evil and the opposite one of constant manipulation of rates for political purposes it is necessary to interpose some strong permanent executive body between the Minister directly responsible to the people and the railway management. When, however, as is the case here, adjacent Colonies each

owning its separate railway system are competing fiercely for the carrying trade to the interior, questions of railway rates are too keenly contested to allow of their being removed from the political arena. The consequence is that the power of fixing rates is used not only in the interests of the rival ports but also as an instrument of protection for the products of each individual Colony.

A Customs Union therefore while it may exist in the letter as between the various South African Colonies may be completely frustrated for all practical purposes. For example, since 1903, the policy of the C.S.A.R. has been that over its system (i.e., on the railways of the Transvaal and Orange River Colony) no differentiation should be made in the rates on particular articles, whether they are produced locally or imported from overseas. The measure of protection now accorded to the local product is that set out in the Customs Tariff and nothing more. In the Cape Colony and Natal, however, the opposite policy has for long prevailed. At the Customs Conference of 1906 a determined effort was made by the inland Colonies to obtain uniform railway rates throughout South Africa without differentiation in favour of local products, and this was to a large extent successful. It is still true, however, in the case of certain articles (as it previously was of many others) that the protection given in the Custom Union Tariff is largely increased by the effect of preferential railway rates, and it follows also that instead of there being one policy in South Africa as to protection of local products, as might be inferred from the existence of a Customs Union, that policy varies in the different Colonies just as much as it might if there was no Customs Union at all. Owing to the complication of the subject, assertions that protection is being given to local products through the medium of reduced rates, are



equally difficult to prove or disprove, and any system which tends to make each community in South Africa regard the others with suspicions that can neither be justified nor removed, is a great mischief.

So long as the railways are in the hands of competing companies, rates will in the end be determined by the ordinary forces of supply and demand under competitive conditions, subject to such statutory restrictions as may exist to prevent undue preference in favour of individual interests. Where, however, the State controls the railways the fixing of rates is inevitably affected by certain considerations of public policy. It is clear that such considerations should be laid down only after they have been fully discussed and accepted by the people as a whole in the general interests of the country and that subject to such considerations the railway tariffs should be left as far as possible without interference to adapt themselves to the natural requirements of the commerce and industries of the country.

The present position in South Africa, however, is such as to invite the maximum amount of interference with the natural adaptation of railway tariffs to the commercial and industrial requirements of the country and to prevent the possibility of agreement on any general principles of State policy within which an Executive Government could be left to frame what may be called a natural system of rates. The result is that rates are fixed upon no scientific or permanent basis. They are subject to political influence of all kinds, which prevent them from adjusting themselves to the natural conditions of commerce and industry. So long as rates are determined rather by political exigencies than business principles they will add to the uncertainty of the conditions upon which the trade and industry of the country depend, and hinder their development on natural and healthy lines.

The effect of these observations may be summarised as follows. The management of the South African Railways in separate sections, each controlled by a different Government, has produced a system of rates which does not respond to the natural demands of trade, is highly unstable, and defeats the intention of the Customs Union. The general result is great uncertainty in the conditions of business so far as they are affected by rates and custom.

But the markets themselves are in the highest degree unstable because they depend to a large extent on the mining industry, the development of which is checked for want of labour and of capital. This uncertainty as to the future of the mining industry is making itself felt in every business throughout the country, and not least, if the truth were known, in the agricultural industry itself.

But to what is the scarcity of capital due? The gold and diamonds are in the ground; the quantities in which they are present can be predicted in most cases with unusual accuracy; the mechanical cost of extracting them is measured with greater exactness every year. The mines may even in special cases have sufficient labour in their compounds and yet the money necessary to recover this almost visible wealth is not forthcoming. One party asserts that this difficulty in obtaining money is due to an uncertainty as to how long the present supply of labour will remain available. Another party declares that money is scarce because it is frightened away by the speculative habits of business which have grown up in connection with the industries of this country. But in this all agree that reluctance to stake money on mining enterprise is due to uncertainty of some kind in the human as opposed to the physical conditions of South African business. The instability is political and moral rather than natural, it is not in the soil but in society itself.

Every business man knows how fatal to the growth of enterprise, uncertainty as to customs, railway rates and the market must be. Whenever he thinks of establishing a factory or a business of any kind he sits down first of all to calculate what return may be expected from the capital he proposes to invest. The question whether the existing market for his products will be maintained and what customs duties and railway rates, not only he, but his competitors in other countries or parts of this country will have to pay are three of the most important elements in his forecast. The value of that market and the exact amount of the customs duties and railway rates at the moment are not nearly so important as the question whether they are to be equally advantageous in the future. If a biscuit maker in Johannesburg finds that the state of the market, the amount of railway rates and customs duties are such that he cannot compete with imported goods he simply does not invest his money in the business. But his capital is not lost and he can still invest it in some other business, perhaps in this country, perhaps in another where, though the return may not be so great, the risk of total loss is far smaller. If, however, these conditions are such as to encourage him to invest that capital in a factory and machinery, and then, in two years, they are so altered as to render further competition impossible, his capital is lost, and grievous hardship is caused, not only to himself, but to a number of workmen who have settled in the country on the strength of the employment he was able to give. Uncertainties of this kind damage the working class even more than investors.

Exactly the same considerations apply to a merchant at Port Elizabeth. He, as a business man, sits down to consider the natural conveniences of the various ports of South Africa, and calculates that the advantages

of Port Elizabeth are such as to ensure to it a certain proportion of the trade; he builds his warehouse and engages his staff accordingly. His market, however, at the other end of South Africa is in a country which is under another Government with local problems and interests of its own, in view of which that Government, for reasons of which the Port Elizabeth merchant knows nothing, and the force of which he cannot understand, makes an arrangement which deprives that port of the advantages which it previously enjoyed. His capital is no longer in a liquid form, which can be carried to any part of the world and be converted into wealth of any kind; it is fixed and located in one particular spot in the form of bricks, mortar, and plant. Nevertheless, by a stroke of the pen made 600 miles away, he has lost the whole or at least a part of its value. It is not beyond the bounds of possibility that, in years to come, some new political manœuvre might alter these conditions as against the Transvaal. If, for instance, the Government of Portugal were to enter into an understanding with the Governments of Cape Colony and Natal, the whole position would be reversed once more, and the conditions which existed when the coast Colonies levied what duties they pleased on the inland States would be revived. Changes might then be made in the elementary conditions of business, upon which the industries of the inland Colonies have been based, such as might ruin them, and those changes would be made by administrations over which the business men of the inland States had no control. In a word, fluctuation in political conditions mean constant destruction of capital.

The amount of capital which investors will venture in this or in any country depends first of all on the value of its resources, a factor which nature has fixed and man cannot alter; but it depends no less on the

political conditions under which those natural resources have to be exploited, and those conditions are determined not by nature, but in a self-governing community, by the people of the country themselves. In no business in the world are the conditions absolutely certain; as all human affairs are mutable, it is always a question of degree. Capital can nowhere find absolute stability, not even in the consolidated funds of the United Kingdom, and as the supply available in the world at any time is limited, it will tend to gravitate to that part of the world, where, other things being equal, the greatest measure of certainty in political conditions has been attained, or in other words where industrial and commercial conditions are assured, so far as it is within human power to assure them. Before any community can hope to prosper, its political institutions must be such as to afford each citizen a certain measure of security that he will reap where he has sown; and the better the security they give the greater will be the prosperity of the country in the end.

All this will be readily admitted, but can any South African who reflects on the institutions of his country flatter himself that they are calculated to secure the utmost measure of stability in business conditions? So long as railways are divided between a number of jealous administrations, rates will continue to be the sport of political exigence; they will be fixed more in obedience to local agitations than to suit the natural demands of trade. The Customs Convention rests on no foundation of enlightened public opinion, and business men dare not trust to the maintenance of its provisions. The instability produced by the uncertainty of the labour supply has been already mentioned. It follows that everything is felt in practice to be unstable and want of confidence affects every business and industry in the country. Despair of developing its natural riches by



labour, forethought and calculation teaches men to treat business as a gamble and to look for fortunes to the variations of the market rather than to hard-earned dividends. The minds of the men and the habits of society have conformed themselves to the defects of the system under which they live. The instability of political institutions has reproduced itself in methods of business, until South Africa has come to be regarded more as a place for speculation than the home of serious enterprise.

All these defects in its system have been at once concealed and aggravated by the great rapidity with which certain sources of wealth were discovered. In the last thirty years repeated discoveries of precious stones and metals have lifted the economic conditions of the country up many steps in the ladder which other countries have taken far longer periods to climb. That process, by reason of its rapidity, produced in the meantime conditions which were abnormal and therefore misleading. From 1886 onwards the presence of enormous quantities of precious minerals in the ground was ascertained in a comparatively short space of time, and the recovery of this buried wealth in future years was to a great extent anticipated in the shape of enormous prices paid for the mining ground. As reported to Mr. Chamberlain the estimated worth in the eyes of the public in December, 1902, of the right to recover in future years the gold contained in the Witwatersrand was no less than £173,126,414. Some of this value, of course, went to enrich investors in Europe, but there is no doubt that a great portion of it was represented by wealth which, in one form or another, remained in the country. South Africa, in fact, inherited such a series of unlooked-for legacies that she mistook and still mistakes them, as well as the expenditure on equipping the mines, for normal and continuous revenue. It is

sufficiently obvious that the discovery of these huge values was bound to produce for the time being an amazing prosperity. Fortunes were made as they have never been made in South Africa before or since. Men rapidly learned to regard these conditions as the natural order of things, and to expect that, even after a devastating war which had dislocated the whole fabric of society, fortunes would again be made as rapidly and wealth would again be as plentiful as in the days when the potentialities of the Rand were yet in the course of discovery. The fact is that the wealth was discovered, and became suddenly available on such a scale as must for the time being have overcome defects, however great, in the organisation and government of any country. In the worst governed countries such defects would have been veiled for a time. Similarly, fresh discoveries on the same scale would again yield a period of brilliant prosperity, and would most certainly be followed by a corresponding period of chaos and depression, even without the extraneous circumstance of a war, as soon as the public throughout the world had lost its fever for speculation, and the actual recovery of the gold was recognised as a problem which depended on the finding of the necessary labour, and the other common-place conditions which everywhere govern the development of industries. So long as the burst of prosperity lasted, all subsidiary industries and undertakings, even the great industry of agriculture itself, would find that capital was obtainable in plenty. One effect would certainly be seen in an increased disposition to look to speculation for the acquisition of wealth, instead of depending on industry, forethought, and patience for the conquest of natural obstacles. The more rapidly fortunes were made, the wilder would speculation become, and the deeper and more lasting would be the period of depression which would soon follow. Once again men would find

that capital, their first necessity, if the looked-for development of industry were to be realised, would avoid the country because the labour required to realise the value of the new treasures which had been found and sold was not forthcoming, and because the calculations of business men were constantly falsified by political changes in fiscal and industrial conditions.

It cannot be urged too strongly that the people of this country, collectively and individually, should cease to depend for their prosperity on the discovery and sale of new mineral assets. Wealth, the presence of which has already been ascertained, exists in such abundance as will afford employment for generations, and may become the source of extensive developments on a great scale, if only the people of this country have the fortitude to secure that the conditions of the society in which they live shall be brought within their own control. At the present moment they are, in many important respects, under no effective control at all.

The consequences of disunion on the law have also to be considered. Law is what defines and enforces the relations of each individual in a society to all the rest. It therefore prescribes the rules in accordance with which business and commerce must be carried on. Business in great part depends upon a knowledge of those rules, and on seeing that what is done complies with them, and if the rules are multifarious, and subject to constant change the difficulties of business are increased accordingly. The present system of South African Government means that there are at least five different sets of rules made by as many different legislatures, and that, therefore, they are several times more liable to be changed than if there were only one. A South African company, for instance, may be formed and regulated under many different laws, and it is open to promoters to register under whatever law allows the

freest scope to unscrupulous dealing. To take another and a simpler instance, the law of weights and measures varies in all parts of the country. A foot and a ton may mean one thing in one place and another thing in another place. The Government of the Transvaal, after obtaining information and advice from all parts of the commercial world, prepared a law of weights and measures which was sent in draft to all the Governments and commercial bodies of South Africa. The bill was pronounced to have been admirably conceived and framed, but from many neighbouring Colonies it was urged that it should not become law in the Transvaal, unless all the legislatures of South Africa could adopt it simultaneously. Now, if this were possible at all, it could only be done by such a process as in the case of the Customs Convention involves an intolerable waste of labour. Meantime, it is open to all the different legislatures to vary the law inside their own jurisdiction, and within the last four years, the law has, to a great extent, been so varied in the Transvaal.

But there is another and even more important class of law, the common law which is developed by the interpretation of judges in the Courts. Until South Africa has a common Court of Appeal a different and inconsistent common law will tend to develop in each of the separate States. Appeals to the Privy Council in England are expensive and slow, and therefore too seldom made to secure that South Africa shall speedily develop one system of common law which operates equally throughout the country. That task can only be performed with effect by the establishment of a South African Court of Appeal as one of the necessary institutions of a South African Government.

A confused legal system is a drag on enterprise, and its paralysing effects are all the more dangerous because they so seldom meet the eye. Perhaps it is more notice-

able to a new-comer than to one who has grown up under these conditions, and has come to accept them as the established order of things.

In these pages I have pointed out that the division of South Africa produces in many different respects a liability to change and an air of uncertainty which tends to discourage the investment of capital. The examples I have used point to another of its evil effects, in crippling the power of Government to remove obstacles from the path of enterprise. The improvement of the agricultural industry is among the first objects which public policy has in view. We are beginning to see that South Africa is still a very new country, and that the methods by which stock can be raised and crops grown to the best profit have yet to be developed by experiment and research. The knowledge so gained to be of any use must be applied in two ways. One part of it must be taught to the farmers themselves; they must be trained by such a system of public education as exists in America to become experts in the art of agriculture as applied to this country. But the discoveries of science which relate to pests of all kinds whether locusts, or the diseases of plants and stock, can, for the most part, be applied only by the agency of Government itself. As things are, inaction on the part of one Government may go far to defeat measures taken at great expense by the others. Every practical farmer will see that effective attempts to eradicate pests must be carried out from one end of South Africa to the other. At this moment the swarms of locusts which threaten the farmer with disaster are a reminder that boundaries, which divide the strength and sympathies of the people, set no limits to the progress of the plagues of nature. Vigorous steps taken in the remoter parts of this country during the last two months under the direction of a strong central authority would have cost but a tithe of the value of crops now doomed



to destruction. From the public press it is evident that practical farmers are realising what a direct effect on the development of their own industry the divisions of the country are having.<sup>1</sup>

The shipping combine is another illustration of the want of control over business conditions due to disunion. It is not assumed that the Conference which controls that combine does, in fact, as a great number of importers in this country believe, abuse the power it holds over shipping freights. Even if it is assumed that it does not, is there not, at any rate, a danger that a great monopoly, exempt from the effective control, whether of competition or law, should come in time to use its position for the exclusive interest of its shareholders and to the prejudice of its customers? If South Africa can trust her commerce permanently to the unfettered control of any shipping ring, the case against trade monopolies falls to the ground. So long as the companies are united, and she remains divided, a combination can always break up a temporary alliance between the several Governments by making concessions to any one of them. As soon as one Government controlling the railways and harbours can speak for all British South Africa, it will, at least, be within her power to arrange with the Shipping Conference the conditions of her sea-borne traffic on a footing of equality, and to discuss as a question of business what otherwise she must ask as a matter of favour. At present the whole sea-borne trade of South Africa is controlled by one private corporation, which, of course, has no responsibility to the people of the country, and the mercantile community must recognise that unless an unforeseen competition is conjured out of the deep the power of that corporation must remain absolute so long as no

<sup>1</sup> See letter of M. C. G. Lee in "Ons Land," September 27, 1906.

single control can be exercised over the ports. It has been shown how powerless disunion has made South Africa when dealing with a single foreign country. The same considerations apply to all her relations with any carefully organised union of private interests. She can only deal with them on equal terms by applying the lesson which they themselves have learned from the conditions of their business.

If anyone doubts the mischievous effects of political disunion on business, let him ask an American whether he thinks that the enterprise of his country could have advanced to its present stage unless there had been some law or administration common throughout them all. Or let him take the case of Great Britain, and suppose that not only Scotland and Wales, but also the Northern, the Southern, the Eastern, the Western, and the Midland Counties of England had grown up as separate and independent units of Government, and then picture to himself what the effect on its commerce and industry would have been. If he will go on to reflect that in South Africa a people little more than a million in number are attempting to administer the country, and to make laws in six or seven different districts all independent of each other, he will wonder not that enterprise is brought to a standstill, but rather that it ever advances at all. Not until she has enjoyed twenty years of united government will it be possible even to guess how far her prosperity may develop.

Material progress is by no means proposed as the purpose of national life. To be strong, free, and self-controlled is the end to be diligently sought, and where this is attained prosperity will be added. Lack of self-control is the essential evil, not the misfortunes, which weakness brings in its train. If the people of South Africa will seek as the one thing needful the faculty of political mastery over themselves; if, in a word, they

can rise to the idea that the nationality itself must rule, and not be ruled by the elements of which it is made up, prosperity will follow as it must wherever chaos gives place to order. Increase of wealth is not the object, but merely one result of national well-being, and to seek it as the first purpose of public policy is to miss that and all else that is worth having as well.

## PART VI.

### NATIONAL EXPANSION.

Reference has been made to the deep concern which Washington felt for the vast and vacant lands behind the thirteen States of the Atlantic Coast, when first united by the foundation of the American Nation. Beyond all comparison the most important result of that union was seen in the control which the United States were able to exercise from the first over the development of the back-countries. New States sprang into existence in the wilderness, but the form which they took was determined by the people as a whole, and they grew up not as new units with conflicting interests, but inside the community of the nation as parts of the whole, and subject for national purposes to the authority of the whole. This also was the case with Canada, whose vast hinterland was controlled by the Hudson Bay Company. Not until the provinces were united under the Dominion was Canada able to limit the Company to its proper sphere, the trade in furs, and open up the North-West Territories to the occupation of her own increasing people.

The space on the surface of the globe is limited, and any portion of it assigned to a nation is given them by way of trust rather than in absolute ownership. Their tenure must, in the end, depend upon whether they are able to bring it under effective occupation, and history

shows that, unless this is accomplished, it is generally taken from them, and given to another.

South Africans remembering this should look North to the Zambesi, and ask themselves who is to control the settlement of Southern Rhodesia, a great country, at present supporting no proportionate population. As the world becomes more crowded every day the occupation of a country like this becomes a matter of pressing importance. Its development may be delayed, but it cannot be prevented, and if there is one warning to be read more plainly than another between the lines of South African history, it is that which points to the un wisdom of allowing the political organisation of the northern countries to take place in utter independence of the community already established to the South.

Is this history of mistake to repeat itself once more? The answer lies with South Africa herself.

A country great in area still remains to be settled; but neither Cape Colony, Natal, the Orange River Colony, nor the Transvaal can now take any share in the task of its development, nor are the 12,000 white persons thinly scattered about its surface strong enough to bear that burden alone.

The shareholders of the British South Africa Company have stepped into the breach and shouldered the burden, but can or ought the Administration of the Chartered Company permanently to endure? The alternative is that which was adopted by the United States and Canada. An alternative which, translated into the terms of South Africa, means the control of the development of the Northern Territories by the united peoples of Cape Colony, Natal, the Orange River Colony, the Transvaal and of Southern Rhodesia herself. The people of Southern Rhodesia can take the same share in that development as the emigrants who left the United States and the old provinces of Canada and

settled in the vast territories which either of those Governments controlled. So soon as an area of sufficient size was occupied by an adequate population, it was constituted as a new State or Province by the act of the Federal Government, and incorporated on an equal footing with the older States of the Confederacy. But even before that step was possible, the white inhabitants of these territories had their own representatives to speak for them in the national Parliament. From the very outset each individual stood on a footing of political equality as a member of one great nation.

The importance of the Canadian precedent will be better understood from the following account:—

<sup>1</sup> We have already dealt with the affairs of the Hudson's Bay Company down to the end of the fifties and seen that, at this time, a final settlement seemed as far off as ever. The political circumstances, however, of Canada precipitated a decision of the question. When once confederation came within the sphere of practical politics, the further question naturally arose, should not British Columbia form part of such a confederation; but if so was it to be tolerated that it should be severed from Canada by a tract belonging to an independent company, which at one time talked of selling its rights to Anglo-American capitalists; and so, among the subjects on which Canadian representatives conferred with the Home Government in 1864, was the settlement of the North-West and the claims of the Hudson's Bay Company. The Company had been reconstructed in 1863 amidst loud promises of a new policy, but in fact nothing was done and in 1866 the shareholders condemned and rejected the policy of colonisation absolutely and definitely. The union of British Columbia and Vancouver Island was effected in 1866 by an Imperial Statute. The original intention was that the Hudson's Bay Company should come to terms with the Canadian Government under a section of the British North America Act, but it was afterwards held that, as the claims of the Company were based on a Crown Charter an Imperial Statute was necessary. An Act was therefore passed enabling the Crown to accept the surrender,

<sup>1</sup> "A Short History of British Colonial Policy," by H. E. Egerton, p. 372.



upon terms, of the rights of the Hudson's Bay Company. It is unnecessary to enter here into the lengthy negotiations with regard to the price to be paid to the Company for the surrender of their territorial rights. The Company was a powerful Corporation with men such as Lord Kimberley or Sir Stafford Northcote for Governors, served by very able officers and, doubtless, could protect its own interests. The North-West Territories were finally purchased in 1869 for £300,000, and the new province of Manitoba was carved out of them. To us the important point is that henceforth the way was clear for a confederate dominion to stretch from ocean to ocean. "A new nation," "a fresh power," had been called into existence and the dream of Lord Elgin had been fulfilled, that it was by creating such a country as might fill the imagination and satisfy the aspirations of its sons that the danger of absorption with its great neighbour might be for ever set at rest.

The position of the Hudson Bay Company in the North-West Territories of Canada closely resembles the position of the Chartered Company in the Northern Territories of South Africa. A more exact analogy would be difficult to find. To underrate the value of the work done by chartered companies is a very common mistake. As a matter of fact the foundation of nearly every new country, except the Antipodes, has been effected through their agency. Such rapid action and bold enterprise as is needed for this work in its initial stages comes more easily to a semi-private corporation than to a government. Whatever criticism may be made of the chartered company it must never be forgotten that it saved the hinterland to South Africa. For any European flag other than that of Great Britain to have waved over the countries between the Limpopo and Lake Tanganyika would have been regarded as a calamity of the first order by everyone who regards himself as a citizen of South Africa. The development there of a foreign community must have arrested the growth of South Africa herself and plunged her for ever into the whirlpool of European politics. The British

South Africa Company has performed a service of the first magnitude to South Africa and to the British Empire. But a company is one thing and a government is another, and when once the foundations of the new society are laid the conflict between the duty of the company to its shareholders and its duty to the settlers begins, and eventually becomes irreconcilable. The function of government must then be separated entirely from the function of trade. In Southern Rhodesia the two are so closely involved together that as in Nigeria, the acquisition of the Company's rights by the State may prove the wisest policy. The longer this problem is postponed the more difficult and the more expensive will its solution become, and if South Africa desires to emulate the destiny of the United States and Canada she cannot place herself in a position to grapple with this question too soon.

British territory stretches beyond the Zambesi, far away north to Lake Tanganyika. In whatever degree this great region is a country where white men can work and thrive and multiply, by so much will the opportunity of expansion inherited by South Africans through the British Empire be increased.

## PART VII.

### THE FUNCTION OF NATIONAL INSTITUTIONS.

It will now be seen that the disunion of South Africa means an absence of control in every part of her common affairs. One section of the people can dominate the rest by means of their railway policy, and dislocate their interests by a stroke of the pen without reference or responsibility to those affected. Railway rates are used for the protection of local industries and cannot be fixed in accordance with the general demands of trade. The Customs Convention is a compromise framed in accord-

ance with no clear principles in such fashion that public opinion never willingly accepts its provisions. A continuous supply of labour required to maintain the principal sources of wealth depends on questions which cannot be settled piecemeal and cannot therefore be settled at all. As a consequence business rests on shifting foundations and inclines to speculation rather than to enterprise, a tendency which is further increased by a complex, variable and discordant law. Native policies so different as to defeat each other's intention, complicate the problem as a whole and paralyse any movement towards its solution. The various Governments endeavouring to deal with the questions between them by negotiation, waste their strength and often fail; while the weightier matters left unsettled drift to worse disorder. As friction increases, voluntary co-ordination between the various communities becomes more difficult to secure. In the last resort the Imperial Government, or its representative in this country, is forced to step in and endeavour somehow or other to assist South Africa to settle what she cannot unaided settle for herself. Such interference from without in the domestic affairs of a Colony is the negation of the principle of self-government which is supposed to be established in the different parts of the country. It is fraught with the same danger to the Empire and Colony which attended this practice seventy years ago, and, though necessary to prevent disaster, operates to increase the uncertainty of conditions in this country and its reputation for unsteadiness. The upshot of the whole defective system is seen in friction, miscarriage, waste of strength and general arrest of progress, in a country of marvellous resources peopled by a hardy and vigorous race.

I have shown how difficult it is for the various Governments to arrive at an agreement on the many matters which affect them in common. But even where,

as in the case of the Customs Convention, such an agreement is attained, it fails to produce a condition of stable equilibrium. It is accepted grudgingly as the only refuge for the moment from a worse evil, but the people are unconvinced and distrust what they do not understand. Beyond securing union it represents no policy thought out and adopted by them. It is bound up with all sorts of other questions in respect of which there is no general knowledge. The local legislatures have this effect, that they present particular sides and parts of great South African questions to each section of the people as if they were the whole question. There is no machinery to secure that the people as a whole shall know and consider their affairs as a whole. There is nothing which enables the public in each locality to realise the different troubles, all due perhaps to the same common cause, which are pressing on other communities in distant parts of the country. The truth is that neither cabinets nor parliaments are the guiding and steadying principle in public affairs, but the public opinion by virtue of which they act. What impresses thoughtful observers of British politics is not their vacillation, but their marvellous continuity in the matters which are fundamental. The changes which take place in such matters resemble the growth of an organ rather than the violent operation inflicted by the surgeon's knife. And yet, unlike the American Congress, Parliament is omnipotent, and by a stroke of the pen can change the Constitution itself; but it seldom if ever does so, because Parliament is the expression of a public opinion which is stable because it has been educated to a knowledge of the national affairs visibly transacted in that great assembly, before the eyes of the people themselves. South Africa as such has no national opinion to prescribe the permanent foundations upon which the whole structure of her society shall rest,

because she has no national assembly by means of which such opinion can be formed.

The greatest difficulty that popular government has to face is that of communicating to masses of people, with whom the power to govern rests, such a general knowledge of affairs as will enable them to use that power with advantage and not with injury to themselves. A parliament with open doors, where men accredited from all parts of the country meet and speak together, and having spoken, decide, is a common market of information. It is beyond comparison the most effective means devised for the exchange of practical knowledge. But it is more than this, for it is also a mill where the facts are sifted, blended, ground and distributed in the form of opinion to all parts of the country.

The press is no more than the handmaid of such an institution, and without it cannot fulfil its function. This country is well supplied with newspapers, all local journals reflecting the view of the locality or section for which they are printed; but when they try to take South African views, they conflict with the instincts of the public they address. The press is not the parent of public opinion any more than it is the parent of national institutions. It is only their offspring. It may educate public opinion and modify the national institutions just as a child may have an effect on the parents from whom its own life and character are derived. Public opinion is the soul of a nation, but just as a soul cannot exist on earth without a body to inhabit, so there can be no national public opinion without national institutions. When South Africa has national institutions of her own she will also conceive a public opinion to inform and guide them and a press to reflect that public opinion. Until that time her people will remain provincial in their political outlook and in the scope of information upon which they act. South African interests will exist



none the less and those interests will continue to miscarry because there is neither a South African public opinion, press, parliament nor administration to consider and direct their course. Government is not or should not be a matter of accident. Its forms to be otherwise than mischievous must tally with the facts. As the various departments of South African affairs are each considered the mind ever returns to the same conclusion that her institutions are utterly at variance with the natural unity of the country. Hence it is that the public in each several Colony through its legislature and press continues to discuss the fiscal, native, labour and railway questions as though each were a separate and distinct problem and to propose expedients for dealing with one without asking what effect it will have on another. Port Elizabeth, East London and Durban see their trade deserting them for a foreign port and cry out for the cancellation of the *modus vivendi*. They have nothing to remind them that even the temporary dislocation of the Transvaal labour supply would destroy the very traffic they are seeking to secure. The labour question is not immediately before them and they do not apply themselves to its solution. The people of the Rand persuade themselves on no sufficient data that Delagoa Bay is the cheapest route for goods from Europe, and the ruin which results to British ports is not present before their eyes. The result is that, even if the local governments arrive at an agreement on this matter or that, they have no adequate majority throughout the country or even in its several parts to support and maintain their action. There is no force of opinion, competent to grasp the problem as a whole, nor can there be till the system of government is so revised as to conform to the natural quality of the country and people to which it is applied. Co-operation between governments, of which we hear so much, is an attempt to secure the

rewards of national union without submitting to the discipline it requires, and like all expedients which evade the facts, cannot produce substantial results.

The first difficulty to be overcome is the idea that piecemeal measures can avail to remove evils which are the direct offspring of piecemeal institutions. One party deprecates the consideration of union until a general prosperity is restored. Another, more strangely still, argues that union cannot be thought of until the various Colonies have brought their native policies into harmony with one another. This is because neither has traced these evils to their true source nor realised that so long as the country is disunited, no wholesome level of prosperity can long be maintained, and that all its discordant policies whether in native affairs or anything else must continue to diverge from one another. They have come to look on union as a vague ideal, a convenient heading for political programmes, a suitable close for a public speech, and not as what it really is, the one practical path to a sounder condition of affairs. No adventitious props can avail to give stability to the fabric of South African affairs. The only course is to reconstruct them on a broad and deep foundation of their own. Not pious exhortation, but only the strong will of a united people can avail to bring discordant policies together, whether in railway, fiscal or native affairs. Union is not the end to which reforms like these are a possible approach, but is itself the only road by which any approach to those reforms can be made.

A year ago as the result of a Conference between representatives of the various South African Governments I published a Circular Despatch pointing out that no satisfactory solution of the railway problems was possible until all the systems were united under one authority. I suggested that the various Governments should consult together with a view to the establishment of such a

body as could exercise this control. Throughout the entire course of the six months which I had then spent in this country I was confronted with a crisis in railway affairs which appeared to be as interminable as it was acute. I saw that this tension was the cause of so much bitterness between the various Colonies that unless some such step was taken they would drift apart into an attitude of permanent estrangement, which might even lead to the financial ruin of those less fortunately placed. The railway problem suggested to me that the relations of the South African Colonies to one another were approximating rapidly to those which exist between the disunited republics of South America, instead of approaching the ordered and regulated relations of the North American States. At the time I was so absorbed by this railway problem that I thought it might be dealt with apart. Since that time I have travelled throughout the country and have endeavoured to understand its problems as a whole, and I now perceive that the same cause which I first saw yielding such pernicious results in railway matters is affecting all departments of South African life. Disunion lies at the root of most of the special evils which for the last thirty years have rendered South Africa conspicuous for her troubles throughout the British Empire. The difficulties of South Africa must be faced as a whole and faced thoroughly by rooting out the evil which is the universal cause of these troubles in all their ramifications. Railways are but one of the interests common to all the people of South Africa, or rather I should say they are but a part of its one interest. The labour question, the native question, the economic question and all the other questions which I have dealt with in this memorandum are but parts of the fundamental South African question, and cannot be considered except in their relations to one another. The people of South Africa cannot con-

trol one of these questions and leave all the others with which it is bound up to be prejudiced at the will and caprice of any local section of the whole. If they purpose to hand down to their successors a country and people deserving to fill the status of a nation, they must assume the control of its whole destiny, and this they cannot do unless they learn how to act and how to exercise that control as one. The cure for South African evils lies not in the establishment of a South African Railway Council but in the creation of such a national Government as controls the destinies of Canada, New Zealand, and Australia.

The appointment of a Joint Railway Council (which was the only machinery open to me to suggest at a moment when neither the Transvaal nor Orange River Colony was on the eve of responsible government, just as the Inter-Colonial Council was the only machinery which it was possible to create, at the time it was created, for the purpose of discharging functions common both to the Orange River Colony and to the Transvaal) by the various administrations of South Africa would not alone furnish a complete solution even of the railway difficulty. Joint Councils are bodies created by secondary election, and are therefore subject to certain radical defects, such as I have noticed in the case of the Customs Convention. In practice the various members have too little power of using their own judgment and small scope for initiative. They are prone to think even in questions of detail, not what is the wisest thing to be done or the best thing in each specific instance, but rather what the Government they represent will allow them to do. They are simply the mouthpieces of the Governments or Legislatures which appoint them, and such bodies when entrusted with highly contentious matters are, therefore, indifferent administrative bodies. What is known as the European Concert

is proverbially cumbersome and inefficient in its operations. When undertaking such a task as the pacification of Crete or the enforcement of civilised rule in Macedonia, it has done less than any one member of that Concert could have done in half the time given a free hand. A Joint Council for the management of railways would be, in fact, a South African Concert, and would suffer from similar defects, which would be felt, as the want of essential union makes itself felt at present, in a variety of different ways. I do not think, for example, that such a Joint Council could long conduct its business without obtaining legislation applicable to the railways throughout the whole country. It would, however, be an extraordinary thing if such a Joint Council were given power to make laws over the heads of the separate legislatures throughout South Africa. Such procedure would ignore the fundamental principle of popular government that the laws should be framed by assemblies elected by the people themselves and directly answerable to no one but them. If on the other hand such universal laws governing railway matters could only be made by asking four or five different legislatures to pass them in identical forms, South Africa would again be face to face with one of those impossible positions which are the ever-recurring results of disunion.

The railways are intimately bound up with the whole economic system of the country, and affect so deeply the interests of all its inhabitants that I do not think it would be wise or right for the whole system to be brought under the control of an authority which was not directly answerable to the people themselves, now that for the first time in recent years the establishment of such an authority is passing within the region of practical politics.

The union of the railways under a South African



government would necessarily involve the consolidation of the debts which those assets represent, and the next step could be the consolidation of all the public debts of the British South African Colonies. From the financial point of view this is eminently desirable. The consolidation of South African debts would mean such an improvement in the general credit of South Africa as would make itself felt to the advantage even of those whose debts were relatively lightest.

I do not, therefore, now repeat the suggestion which under different circumstances I made a year ago in favour of the constitution of a joint Railway Council, nor is it within the sphere of my duty to put forward for the acceptance of the people of South Africa any scheme of national union. If, after a careful review of the facts of the present situation, they are of opinion that some form of national union is necessary, it is for them, and for them alone, to frame a scheme for it.

## PART VIII.

### THE IMMEDIATE FUTURE.

While the removal of the peculiar evils to which the people of South Africa are subject is a work which they themselves and no one else can undertake, the evil is of such a nature as to obscure either from themselves or their representatives any general view of their own situation. The only person with access to all the facts and so placed as to view them as a whole, without a special effort to do so, is the High Commissioner, who represents the Imperial authority and not the people of South Africa. With a request such as I have before me from the Governments of the British South African Colonies I cannot do otherwise than state without reserve the facts as they present themselves to me for the information of those with whom alone the power to apply the remedy lies.

Having traced the causes of disunion and shown how calamitous its effects now are in every department of their affairs, I must now acquaint them with the position that must be faced in the course of the next few months.

Under the system of Crown Colony Government the ultimate responsibility to His Majesty's Secretary of State for the administration of the Transvaal and Orange River Colonies and the one railway system with which they are united, rests with the Governor, who happens also to be High Commissioner. In the second part of \* this memorandum some of the matters have been noted which have long been at issue between the several railway administrations. Many of those points cannot be permanently settled without prejudice to questions of principle which ought to be decided by the representatives of the people themselves, and the efforts of the Central South African Railways Administration have therefore been directed towards bringing about a working agreement for the time being, so as to prevent the Central South African Railways from being handed over to the successors of the present Governments in a state of active hostility with the other railway administrations of South Africa. A temporary arrangement for twelve months has been arrived at on all outstanding disputes including those which have arisen from the completion of the Klerksdorp-Fourteen Streams line, the Bethlehem-Kroonstad line and the line between Brakpan and Witbank. The fact that in two Colonies administrations directed by the Crown were about to give place to Governments immediately responsible to the people embarrassed the situation, but the ready appreciation of these difficulties shown by the Governments of the Cape Colony and Natal has gone far to smooth the way to a

\* "South African Railway Unification and its Effect on Railway Rates." [Cd. 3564, pp. 65-105.] Not reproduced.

settlement. I welcome this opportunity of recording my gratitude for the moderation used under conditions which have been trying in the extreme, and if within twelve months the four Governments can meet, relieved from the tension which would exist had immediate and pressing questions remained in dispute, that result will be in great measure due to the ministries of the Cape Colony and Natal, who abstained from pressing matters to an issue at a moment when the conditions necessary for the completion of a settlement had not arrived. The new Governments might have entered on office to find themselves faced with a crisis. As it is a breathing space has been secured in which they can consider the momentous issue which lies before the Governments of South Africa. So far they have tried to follow a middle path leading direct neither to union nor separation, from which they thought they might turn either to the one or the other whenever they choose. When, however, the various courses open to the parties at the approaching railway conference are considered, it will be seen that the time is at hand when a definite decision can no longer be postponed.

It must indeed be realised, that within a year the political position of the country as a whole must become the subject of deliberate discussion between all the Governments of British South Africa. From the diagrams on which the distribution of traffic between the various coast States is traced, it is plain that the preference provided by the *modus vivendi* as against the British ports is threatening them with ruin, and if left to take its course cannot do otherwise than seriously affect the stability of the budgets of the coast Colonies. It is that position together with all the minor subjects in dispute which must within twelve months become the subject of a Conference, and the South African Colonies will then find themselves at the parting of the ways.

The earlier parts of this memorandum have been devoted for the most part to pointing out principles and suggesting what the national ideal should be, and what probably the ideals of a united South African nation would have been in the past. Had the whole railway system of South Africa for the last twenty years grown up under the control of a national Government, sooner or later a line would have been built to Delagoa Bay, but a Government which was responsible for all the ports and railways of British South Africa could not possibly have afforded to have developed Delagoa Bay to the sacrifice of its own invested capital. It would never have diverted so much of the inland traffic from its own ports to build up a foreign community beyond its frontiers. Unfortunately the railways of South Africa did not grow up under a national Government, but were constructed not merely in competition with, but almost in the spirit of hostility against, one another. South African trade has in consequence gone to foster Delagoa Bay and has built up valuable interests there, so that it is now impossible to leave these factors out of account.

There are at all times a number of public men who believe that any resolute attempt to face the situation is dangerous rashness. Such men are wont to say that the union of South Africa cannot be hurried, and will come in due time, as though it would some day fall like rain and be attained without painful effort on the part of the people themselves. It is not so that great human institutions are made. They are always the result of conscious will, forethought and labour, and not until the great struggle is faced, the supreme effort made and heavy sacrifice undertaken, will the union of South Africa become an accomplished fact. The truth which needs to be recognised is this, that the longer the struggle is postponed the greater will be the effort and the heavier the sacrifice which must be undertaken.

Worst of all, the results sought by union will grow less and less worth attaining. The advocates of inaction ever forget that while they sit with folded hands the course of events never halts, but hurries past them and beyond their control. This has been the case with Delagoa Bay, but there is still time to modify the disproportionate and unforeseen advantages which the present arrangement has operated to bestow on a foreign port, and to make such alterations as will secure to the British ports a fair distribution of the inland traffic, though in scrupulous fairness and in all friendly spirit towards our ally.

It is not as yet possible to say with exactness who the parties at the Conference will be, or what particular interest each will represent, for it is a question whether the representatives of the Transvaal and Orange River Colonies will appear jointly answerable for one unified system as at present, or each on their own account and answerable for separate systems. Even if the Inter-Colonial Council of the Transvaal and Orange River Colony holds together, the coast Colonies should ask themselves in advance whether the new administrations, who will have to justify all they do to the electorate of the inland Colonies, would be likely to accept a scale of rates designed to pass two-thirds of the traffic over the lines of Natal and the Cape Colony. It has been already stated that if in the year 1905 all the Transvaal traffic could have been diverted to Delagoa Bay the gross revenue of the Central South African Railways would have been increased by at least £200,000. There is indeed good reason for believing that every ton diverted from the foreign port to the British ports will mean a loss of gross revenue to the Central South African Railways equal on the average to about £1 2s. 4d. So long, therefore, as the railway system of British South Africa remains as it is at present, artificially split up into



sections by the mistakes and accidents of history, any substantial relief given to the coast Colonies will be paid for by the inland Colonies at the cost of hundreds of thousands of pounds. No arrangement whereby the inland Colonies agreed to sacrifice revenue on this scale out of friendship to their neighbours, even if made, could be expected to last. The first recurrence of financial pressure would break it down, and every business man would know this and distrust it as much as he distrusts the stability of the Customs Union. Patriotism is and should be stronger than material considerations, but all experience in this and every other country, and more especially the treatment received by the Orange Free State at the hands of its ally as set forth in Mr. Brounger's letter, shows that it would be madness to found any hopes on a settlement which involved a visible continuous and substantial pecuniary loss to a separate administration.

The other possibility is that the Transvaal and the Orange River Colony may present themselves at this Conference as separate Railway Administrations. In this event the Transvaal will hold the keys of the situation as Mr. Middeberg held them at the Conference of 1895; but it will be as difficult for any administration answerable to its tax-payers, to allow traffic to enter by way of Viljoen's Drift which could be brought in by way of Komati Poort, as it was for President Kruger to do so.

Some expedient which will secure for the ports of the coast Colonies a fair share of the traffic is, in my belief, absolutely essential to the future unity of South Africa, but the inherent defect in the proposals which were put forward by the Coast Colonies at the Conference of 1905 is this, that in order to produce a fair distribution of traffic, the South African Governments were asked to accept an arrangement which gave all the advantages

of the change to one geographical section and imposed the whole of the cost to be paid for it on another geographical section. As already shown, this result has come about because those geographical divisions are not natural but arbitrary. The only means by which the people of South Africa can secure an even and uniform division of all the gains and losses which are to be brought about by an arrangement, necessary to save their unity in the future, is by wiping out those geographical divisions, so far as the railways are concerned, by uniting the railways into one system, and by ceasing to treat them as a source of revenue; for so long as the railways are used as an engine of taxation, the taxes so paid will be distributed unevenly amongst the population of the country. The moment the railway systems of South Africa are made one, and the Transvaal and the Orange River Colony become partners in that system, they cease to be concerned to send the whole of their traffic through Delagoa Bay. They are merely concerned in seeing that goods are brought to their country as cheaply as possible. It will no longer pay them to see great sections of a system of which they are part owners left to rust, and they will be prepared to face such a distribution of traffic between the various routes as will save the ports of their own country from ruin. The people of the Transvaal will see that it is wholly to their interest to use their great resources, not in developing a foreign port, but in developing at their own ports great commercial communities whose interests will be identical with theirs.

Any system of union, while it must ultimately be based upon free trade within the limits of British South Africa, must include some provision for the protection of existing interests during the transition stage. It might, for instance, secure a certain proportion of traffic to each of the ports for a period of years. During that

time the Government of the united country would be gaining an insight into the facts of the situation. Its railway administration would be finding out which were the natural lines for this or that current of traffic, and how much traffic could be taken by each line to the best advantage of the country as a whole, so that after the transition period, the question would rest with the national Government itself subject to the constitutional obligation to see that internal free trade was, as far as possible, preserved.

Attention has been drawn to the fact that where the Colonies cannot agree amongst themselves, the Imperial Government is often forced to interfere in affairs which are strictly domestic to South Africa. If the Conference breaks up, if the Transvaal and the rest of South Africa turn their backs on one another, each to pursue its own selfish course, the results are likely to furnish an apt illustration of this remark. The immediate consequence can scarcely be anything but the declaration of a rate war, such as all the administrations of South Africa have for the last few years been straining every nerve to avoid. The rates from the British ports will be lowered so as to enable them to compete with Delagoa Bay. In accordance with the terms of the *modus vivendi*, the Central South African Railways would respond either by reducing rates from Delagoa Bay, or by imposing countervailing rates against the coast Colonies. I am assuming, first of all, that the arrangements between the Transvaal and the Orange River Colony will have held together. The ports will be faced with ruin, and their Governments with the gravest financial embarrassment, and, powerless as they are, they can scarcely do otherwise than appeal to the Imperial Government, and for this reason, that the responsibility for maintaining the *modus vivendi* rests with the Imperial Government. The Transvaal Govern-

ment is repeatedly mentioned in that agreement as being bound by its terms, but the parties to the agreement are the British Consul-General, who is stated to act for and on behalf of the High Commissioner for South Africa, and the Governor-General of the Moçambique Provinces. In past years the office of High Commissioner has at various times been identified with the Governorship of Natal and the Governorship of Cape Colony, and it does not by any means follow that it will always remain identified with the Governorship of the Transvaal. It might, therefore, fall out that the man who was the Governor of Cape Colony might be the person who, subject to the orders of the Secretary of State, might be responsible for maintaining or denouncing that agreement. It is perfectly clear that as matters stand the responsibilities which it involves lie in the last instance with the Imperial Government, and not with the Government of the Transvaal. If then the coast Colonies point out to the Secretary of State that they are forced into a rate war for self-preservation by the terms of this agreement, the Secretary of State would again find himself forced into the position of arbiter between the contending Colonies of South Africa on a matter strictly domestic to South Africa, and of no importance whatever to the Empire at large unless it were allowed to run to such lengths as threatened the peace of the country, a point which was once well-nigh reached over the question of the drifts.

If, however, the Central South African Railway Administration broke up, and the Government of the Orange River Colony once more managed its railways separately, it would, in fact, be obliged to fall in with the coast Colonies. The situation would then be more critical still, for the coast Colonies could run their goods up at competitive rates to Viljoen's Drift, within reach

of the Rand by wagon traffic. Once more South Africa would be faced by the drifts question. The Imperial Government might find itself invited to force the hand of a British Colony, as it once forced the hand of the South African Republic. In any case, the Imperial Government would be obliged to use its own judgment as to whether the *modus vivendi* was to be maintained or denounced. So long as South Africa was united in the attitude which she adopted towards the maintenance or modification of this agreement, and so long as other Imperial interests were not involved (and in this particular case no other Imperial interests are involved), there is no doubt but that the Imperial Government would be always guided by the united voice of the country; but if that voice is discordant, if different sections of the country are simultaneously demanding from the Imperial Government different and inconsistent things, the Imperial Government cannot do otherwise than settle the matter at its own discretion, and over the heads of the South African people.

## PART IX.

### GENERAL OBSERVATIONS.

Thus, in the last instance, a question affecting the labour supply and railway rates of South Africa might be taken out of the hands of any authority in this country and remitted for settlement to a Government primarily responsible to the people of the United Kingdom, and which has no wish to be dragged into the matter at all. Here, as everywhere, inability to settle her own affairs is the necessary consequence of disunion, and the certain cause of miscarriage in South African affairs. Yet the Colonial policy accepted by all parties in Great Britain is, from first to last, conceived in the wise belief that such questions as the Colonies of South



Africa continue to force upon them cannot really be settled at Westminster with advantage to either people.

South Africa exemplifies the truth of one of the oldest recorded maxims of political philosophy. More than 2,000 years ago it was said that it is not by promises but by mutual interests that communities are bound together. The writer was thinking of military alliances, and his saying contains a truth, but not the whole truth. To bind a nation together you must not only have obligations embodied in a constitution. There must be not merely kinship among the people, and a certain measure of geographical unity, but there must be common interests as well. Not any one but all these things are the essentials of national unity in the fullest sense. Whatever conventions and arrangements are made, be the people of the various communities of South Africa ever so united by common blood, be the physical boundaries which divide them ever so slight, so long as the political arrangements are such that the Transvaal has materially more to gain by traffic with Portugal than with her sister Colonies, her sympathies will unite her with Delagoa Bay, and divide her from them. So long as that state of affairs is allowed to continue the wider and deeper will that division become. It will develop into a mutual hostility fatal to common understandings such as the Customs Convention. That hostility will end by becoming a tradition of South Africa. Its roots will be driven so deep that in future no one will be able to tear them up. The material interests of the Transvaal will become so involved with Delagoa Bay that it may in the end prove impossible to unite British South Africa as it has proved impossible to combine Sweden and Norway under one Government.

The union of a divided country is seldom a thing which can be postponed to a more convenient season. Divisions left alone tend to emphasise and perpetuate

themselves day by day until any really firm union becomes impossible. The statement so often made that the union of Australia was hurried is the very reverse of the truth. What difficulty there is in holding that union together now is directly due to the fact that it was made too late. The separate States remained apart so long that they began to grow into separate nations, and to feel as such. The union of the Commonwealth was a union of a far looser kind than that of the Dominion of Canada. Had Australia faced the question when Canada faced it, she could have united no less firmly, and the permanence and strength of that union would now have been as unquestioned as hers.

The observation has been made that the knowledge of South Africans, their outlook and their patriotism are in some measure bounded by the colonial or provincial mould in which they have been cast. In the mind of a Canadian the interests of the Dominion take such a foremost place as the interests of the United Kingdom take in the mind of an Englishman. Neither would think of putting the local interests of Ontario or Lancashire, or whatever his native province or county might be, in anything but a subordinate place. The loyalty of too many South Africans, on the other hand, clings to the Colony in which they happen to live, and the man who would urge the subordination of the interests of his particular Colony to those of South Africa runs the risk of being thought a dangerous and visionary politician. The vivid fact of South African Nationality has almost no expression in her political institutions. She has no outward and visible sign to which the loyalty of all her sons may cling, no watchword to utter or standard to raise which may awake them all to vigilance or call them all to action. Obstacles of this kind, so subtle and intangible, existing not in facts but in the minds of men, are to be overcome by such a conscious

and deliberate effort of mind, as in all times has lifted men and nations from one level of existence to another. It is the faculty of imagination which distinguishes a race that is capable of progress from one that is not, by enabling that race to look beyond the wall that surrounds it and by nerving it to throw it down. In spite of their history, and in the face of political facts, the people of this country must think as members of the South African nation, and deliberately create such conditions as will make it natural for them and their children to do so.

The practice, consciously followed, of putting aside the provincial point of view, and viewing each question as it arises from the national and South African standpoint will act as a solvent to every difficulty which bars the way. Take, for example, the question of the capital, always a burning one, wherever a divided country is attempting to unite. Such a question is almost insoluble so long as it is a matter of weighing the claims put forward by the several States, but if once such reasons are consigned to the background and the one point considered is where the capital will best serve the interests of the whole South African people, the difficulties will vanish at once.

The same principle applies to opinions no less than interests. It has been suggested that there are questions which affect not the people of any one Colony but the people of South Africa as a whole. It has been pointed out that in the absence of any machinery competent to dispose of those questions, they are either left unsolved, referred for solution to the Imperial power, or are settled and prejudiced by one section over the heads of all the others. Everyone who accepts this view of the situation will agree that it is mere waste of breath to agitate these questions further until the machinery for solving them is created, and that South Africa should first of all apply

her undivided strength to accomplish the necessary constitutional reform. At best it is a most difficult feat to unite the country under one Government, but those who undertake it will make their task impossible if they attempt at the same time to close the open questions which divide opinion from one end of it to another. They must be content to finish one thing before they go on to the next and they can hardly accomplish union unless they agree to postpone subsidiary questions until by a great constitutional reform they have secured to her people the means of considering and deciding them as a whole. To prejudice such questions is indeed the negation of the principle upon which union is sought, and in so far as South Africans genuinely believe in Representative Government they should insist that all questions, which can be left open and excluded from the Constitutional question, should be held in abeyance to be settled afterwards by the united people whom they concern.

South Africans should be wary of assuming that all South Africa can be united under one Government in the same compact manner as Natal or the Orange River Colony, are united under one administration. Surely, in a country so great as that which extends from the Zambesi to the Cape of Good Hope, many functions of government must always, in practice, be localised in the hands of local or provincial administrations. Within the sphere of work of a central national administration could, of course, be included all matters which local governments cannot handle with effect, or cannot dispose of at all; but there would still be functions which the present Governments perform, which would have to be carried out by a provincial administration. Obviously it would be convenient to base those administrations on the historic areas with their existing Governments, modifying them perhaps on less ambitious and far less

expensive lines. Some arrangement of this sort would have evolved itself even if the Government of South Africa had spread naturally northwards from the Cape to the Zambesi as it spread from the eastern provinces in Canada to Yukon and the Pacific coast.

One more consequence follows as a sequel from the principles which have been laid down. The populations of British and Boer descent are, so far as can be ascertained, approximately equal, and the South African nation of the future will be compounded of these two strong ingredients, just as the Boer himself is the joint product of those tough qualities in the Dutch and Huguenot character which set all the powers of Papal Europe at defiance. Every thoughtful South African looks forward to a fusion of thought, aim and blood between the British and Boer stock which will develop a national type as strong as all mixtures of the western peoples of Europe have ever proved. This, to me, is the true mission of the British Empire, to foster the growth of vigorous nations, adapted to the continent and country in which they live, distinguished by marked characteristics from the other peoples, who, in the five continents are included in its magic bond of equal brotherhood and own one Sovereign. But to say that there is at this moment no racial question in South Africa is to ignore facts and to confound the aim of the future with the realities of the present. I hold it a safer course to face those facts, and those who seek to found a national union will do well to remember that we are still within five years of a civil war. The mutual respect begotten in the course of that arduous struggle will prove the first and firmest foundation of a common nationality in the future, but for the moment it is best to remember that South Africans are men, subject to all the natural limitations of human nature, and it would be blindness to deny that there still remains between them a measure



of suspicion and distrust. I am convinced that the best way to overcome this difficulty is for both races to avow it, and at the same time for both to admit that the only possible form of union is one which the other party will accept as well as themselves. National union is one of those few matters upon which every Government must take every opposition into its confidence without reserve.

If union is the only means whereby peace and prosperity can be attained in this country the remedy may be thought too laborious and slow, and that before any improvement can be reached many who are now near the end of their resources will be faced with ruin. Such objectors will point to Australia where union was the result of a ten years' campaign. But the conditions of South Africa have a far closer analogy to those of Canada than to those of Australia, and in Canada union was an accomplished fact within three years from the time when the movement first began. The rapidity with which union was attained by the people of Canada was due to the fact that they approached the question in the very manner and attitude of mind recommended in this memorandum. British and French, Protestants and Catholics, Liberals and Conservatives, differing in all else joined in this alone, that the united government of Canada by herself must be a condition precedent to the settlement of all other questions. It is true that an opposition to national union sprang up, not from any one of the recognised parties but from that section of opinion to be found in every country which does not know how to rise to any great project of national reform. But that opposition was swept away by a people passionately desirous to be one, and as such to control their own future and fate. There is no reason why South Africans should not apply the remedy as quickly and effectively as it was applied in Canada. If all the people are brought to realise that unless they take the path to

union they will be committed to that of separation, whether they desire it or no, the alternative they will choose is not in doubt. If not, and if the inland Colonies are led to imagine that the final choice can be put off, and that for the present they can pursue their own interests regardless of the consequences to the people of South Africa, they may find themselves once more, having moved in a circle of wide disaster, faced as in 1895 with the question of the drifts.

Reference has already been made to the disastrous attempt initiated in 1876 to force federation on South Africa. The fruits of that miscarriage remain, and while South Africans regard union as the one final cure for their troubles they have come to shrink from the act required to effect it as a sick man shrinks from a surgical operation, forgetting that the longer the ordeal is postponed the more confirmed will his disease become.

In 1858 the political conditions of South Africa were such that the first movement in favour of National Union could scarcely be taken by any community other than the Orange Free State. Nothing that the little Republic could do to further this end was neglected, and had the matter been left to be determined in South Africa the movement would in all likelihood have been carried to its completion.

South Africans may well ask themselves from what calamities would not their country have been saved, if fifty or even thirty years ago, by a movement born of the soil and nurtured by their own statesmen, the federation of South Africa had been accomplished. Shall it fall to the lot of your children hereafter to have to ask themselves the same question?

S.

*January 1, 1907.*

## LXVII. (i) EXTRACT FROM MEMORANDUM ON SOUTH AFRICAN RAILWAY UNIFICATION AND ITS EFFECT ON RAILWAY RATES.

Forwarded by the High Commissioner to the Governors of Cape Colony and Natal, 16 January, 1907.

[Parl. Pap., Cd. 3564, p. 101.]

[The Memorandum dealt almost wholly with railway technicalities and was prepared by a private individual. Lord Selborne declined to consider himself responsible for the opinions expressed, but recommended the memorandum as a valuable contribution to the study of the railway problem in South Africa.]

RAILWAY UNIFICATION MUST FORM PART OF A FEDERAL UNION.

It is difficult to see how any unification of the railways can precede federation. One of the chief advantages to be gained from unification would be that the railway problem would be viewed in its South African aspect, and not from four different points of view, each representing sectional and divergent interests. The authority, therefore, in which the ultimate control of the railways would have to be vested ought to be one which could take a broad unbiassed view of South African affairs. But no body merely composed of representatives of the different South African Colonies could possibly do this so efficiently as a proper federal house elected by the people of South Africa for the purpose of dealing with South African affairs. Any joint committee appointed by the different Governments to administer the unified railways would from its very constitution fail of half its object. Every member would represent a particular Colony, whose interest it would be his first business to secure. The decisions of such a body would thus tend to be compromises between conflicting interests, as is the case in all Inter-Colonial conferences to-day, instead of being prompted by a broad view of the good of South Africa as a whole. No

such joint committee could have the breadth of outlook or the sense of responsibility of a body deliberately elected to take charge of the railways by the whole people of South Africa.

Moreover, in order to secure fully the benefits of unification and to obviate the evils of the present situation . . . it would have to be a central authority which could deal with other matters than those connected with the railways without reference to the separate Colonies. Otherwise it would be necessary for any Legislative action which was required for railway purposes, any alteration in the statutory rights and privileges of railway servants, any agreement with the Portuguese or with the shipping companies in regard to the port rates, the procedure for the transfer of railway land, etc., etc., all to be undertaken and carried through, or at least approved by four different Governments or Assemblies. The difficulty of getting uniformity in this manner would be almost insurmountable.

Besides, it would probably never be possible to get the various Colonies to agree among themselves to any system of unification which involved the surrender of their power over the railways to any body, except to a single strong South African authority directly elected for the purpose. It would be comparatively simple to unify the railways at the same time that a Federal Parliament was constituted. It would be very difficult to establish a central authority which was in any way effective and independent to deal with railways alone.

It is assumed, therefore, that the unification of the railways must form part of some wider federal union, and that the authority to which the unified railways would be handed over, would be directly responsible to the South African people, and not merely representative of the several and independent Colonies. . . .

LXVIII. THE EARL OF ELGIN, SECRETARY OF STATE FOR THE COLONIES, TO THE EARL OF SELBORNE, GOVERNOR OF THE ORANGE RIVER COLONY, INFORMING HIM OF THE DESPATCH OF LETTERS PATENT, 7 June, 1907.

[Parl. Pap., Cd. 3526, p. 47.]

TELEGRAM.

(7th June. No. 2.)

I am sending to you by mail of to-morrow Letters Patent establishing Responsible Government in Orange River Colony. Full information as to text will reach you to-day, and you should publish on 10th June. Commission to Goold-Adams as Governor is also being sent. Latter revokes your Commission from date when Letters Patent come into force. You should therefore issue Proclamation bringing into force Letters Patent on arrival of Goold-Adams's Commission.

In announcing to you transmission of Letters Patent, I am commanded by His Majesty to express his confidence that the inhabitants of the Orange River Colony will continue to enjoy in an increasing measure under the new Constitution the prosperity and contentment which have distinguished their country in the past.

I have to add on behalf of His Majesty's Government an expression of their sincere satisfaction at the consummation of the policy announced in His Majesty's Speech from the Throne on the 19th February, 1906, in accordance with which free institutions have now been bestowed upon the Orange River Colony in no less ample a manner than upon the sister Colony of the Transvaal.—ELGIN.



LXIX. INSTRUMENTS PROVIDING FOR THE ESTABLISHMENT OF RESPONSIBLE GOVERNMENT IN THE ORANGE RIVER COLONY, 5 June, 1907.

(a) LETTERS PATENT PROVIDING FOR THE CONSTITUTION OF RESPONSIBLE GOVERNMENT, 5 June, 1907.

[Parl. Pap., Cd. 3526, pp. 1-13.]

LETTERS PATENT PASSED UNDER THE GREAT SEAL OF THE UNITED KINGDOM, PROVIDING FOR THE ESTABLISHMENT OF RESPONSIBLE GOVERNMENT IN THE ORANGE RIVER COLONY. *Dated 5th June, 1907.*

Edward the Seventh by the grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India. To all to whom these Presents shall come, Greeting.

WHEREAS by Our Letters Patent under the Great Seal of our United Kingdom of Great Britain and Ireland, bearing date at Westminster the 2nd day of August, 1901, We did constitute the office of Governor and Commander-in-Chief (hereinafter called "the Governor") of Our Orange River Colony (hereinafter called "the Colony"), and did make provision for a Legislative Council in and for the said Colony; *Recites Letters Patent of the 2nd August, 1901.*

And whereas We think fit to provide for the establishment of Responsible Government in the Colony:

Now know ye that We do declare Our will and pleasure to be as follows:—

#### THE LEGISLATURE.

I. In place of the Legislative Council now subsisting there shall be a Legislature consisting of a Legislative Council and a Legislative Assembly, constituted as hereinafter provided. *The Legislature.*

The constitution, appointment, and powers of the Legislative Council now subsisting shall continue in

force until the date of the nomination of Members for election to the Legislative Assembly and no longer.

#### LEGISLATIVE COUNCIL.

Legislative  
Council.  
Constitu-  
tion.

II. The Legislative Council shall consist of eleven Members, who shall be summoned by the Governor, and if any vacancy shall occur in the Council a Member shall be appointed to fill the said vacancy by the Governor in Council until the completion of the period for which the person in whose place he is appointed would have held office. Members of the Council shall be appointed in Our name by instruments under the Public Seal of the Colony.

Qualifica-  
tion for  
member-  
ship.

III. No person shall be summoned unless he shall be of the age of 30 years or upwards, nor unless he shall have resided in the Colony for three years, nor unless he shall be qualified to be registered as a voter for some electoral division of the Colony.

Resigna-  
tion of  
Members.

IV. Any Member of the Legislative Council may resign his seat therein, by writing under his hand, addressed to the Governor; and upon the receipt of such resignation by the Governor the seat of such Member shall become vacant.

President  
of Council.

V.—(1) The Governor in Council may appoint one Member of the Legislative Council to be President thereof, and may remove him and appoint another in his stead; and the President may at any time take part in any debate or discussion in the said Council.

(2) In the absence of the President some Member elected by the Legislative Council shall preside.

Quorum.

VI. The Legislative Council shall not be competent to proceed to the despatch of business unless four Members shall be present.

Provision  
for estab-  
lishment of  
elective  
Legislative  
Council.

VII.—(1) Three of the Members of the Legislative Council as first constituted shall vacate their

seats at the expiration of the third year from the date of the issue of the first summons of any Members thereto, four at the end of the fifth year, and four at the end of the seventh year. The Members who retire at the end of the third, fifth, and seventh years, respectively, shall be decided by lot. The Governor in Council shall summon fresh Members to take the place of the Members retiring at the end of the third, fifth, and seventh years, and every such Member, and every Member of the Legislative Council thereafter appointed, shall hold office for five years from the date of his summons to the Council. Provided that any Member retiring in manner aforesaid may be reappointed by the Governor in Council.

- (2) It shall be lawful at any time, after four years from the date of the first meeting of the Council, for the Legislature to pass a law providing for the election of Members of the Legislative Council, and thereupon, subject to the provisions of such law, the then existing Legislative Council shall be dissolved; and thereafter all Members of the Legislative Council shall be elected, and shall possess such qualifications, and shall be elected in such manner, by such persons, and for such periods, as may have been prescribed by the said law.

#### LEGISLATIVE ASSEMBLY.

VIII. The Legislative Assembly shall, save as hereinafter provided, consist of thirty-eight Members, who shall be elected by the voters in the electoral divisions defined and named in the manner prescribed by the first Schedule to these Our Letters Patent.

Legislative  
Assembly.  
Constitu-  
tion.

Each such division shall return one Member of the Legislative Assembly.

Qualifica-  
tion of  
voters.

IX.—(1) Every white male British subject of the age of 21 years and upwards, who is not subject to any of the disqualifications hereinafter mentioned, shall be entitled to be registered as a voter, and when so registered to vote at any election of Members of the Legislative Assembly.

(2) Provided that no person on full pay belonging to Our regular forces maintained by annual vote of the Parliament of Our United Kingdom shall be entitled to be registered as a voter or to vote.

Persons  
disquali-  
fied as  
voters.

X. No person shall be entitled to be registered as a voter on any register of voters—

(1) (a) Unless he has resided in the Colony for a period of not less than six months next before the commencement (as declared by proclamation of the Governor) of the framing of a general register of voters, and—

(b) Is at the said date *bona fide* residing in the registration division for which he claims to be registered.

(c) Provided that any person who within three years next before the commencement of the framing of a general register of voters has resided in the Colony for not less than six months, but who has been temporarily absent during the six months next before that date, shall be entitled to be so registered, notwithstanding such absence, on proof being given by him, or on his behalf, to the registering Officer that his absence was temporary.

(2) If he has been by any of Our Courts—

(a) Convicted since the 31st day of May, 1902, of treason or at any time of murder, unless he shall have obtained a free pardon.

(b) Convicted at any time of any offence and sentenced to imprisonment without the option of a fine, which imprisonment shall not have expired at

least three years before the date of the commencement of the framing of such register.

- (3) If he has been, within six months of the commencement of the framing of such register, in receipt of relief from public funds in the Colony not being relief by way of repatriation under Article X. of the Terms of Peace of the 31st May, 1902:

Provided that treatment without payment therefor in any hospital supported wholly or partly out of public funds shall not be regarded as relief from public funds.

XI. For the purpose of the first election of Members of the Legislative Assembly, to be held under the provisions of these Our Letters Patent, and of every subsequent election until such time as there shall be a fresh register of voters framed as hereinafter prescribed, a list shall be prepared of the persons entitled to be registered as voters in each ward of every magisterial district in the Colony, and in such town or group of towns as defined by their municipal areas to which a member or members is or are allotted in the First Schedule to these Our Letters Patent.

XII. The registration of voters, the preparation of lists of voters, the conduct of elections, and the hearing of election petitions, shall be carried out in accordance with the Regulations prescribed in the Second Schedule to these Our Letters Patent. For the purpose of the first registration of voters, each such ward of a magisterial district, and each such town or group of towns, as the case may be, shall be deemed a registration division within the meaning of the said Schedule, and for the purpose of every subsequent registration of voters an electoral division shall be deemed to be a registration division.

XIII. Upon the completion of the list of qualified voters, the Governor shall appoint three Commissioners

First elections.

Registration of voters, etc.

Commissioners to divide the Colony into electoral divisions.



for the purpose of the division of the Colony into electoral divisions, and may, on the death, resignation, or absence from the Colony of any of the said Commissioners, appoint another Commissioner; and any person so appointed shall have all the powers and perform all the duties of the Commissioner in whose place he is appointed. The Commissioners shall proceed in accordance with the Regulations prescribed in the First Schedule to these Our Letters Patent.

List of  
electoral  
divisions.

XIV.—(1) The Commissioners shall submit to the Governor—

- (a) A list of electoral divisions, with the names given to them by the Commissioners, and a description of the boundaries of every such division;
  - (b) A map or maps showing the electoral divisions into which the Colony has been divided;
  - (c) Such further particulars as they consider necessary.
- (2) The Governor may refer to the Commissioners, for their consideration, any matter relating to such list, or arising out of the powers or duties of the Commissioners.
- (3) The Governor shall publish the names and boundaries of the electoral divisions, as finally settled by the Commissioners, in the "Gazette," and thereafter until there shall be a redivision, the electoral divisions so named and defined shall be the electoral divisions of the Colony, and each such division shall return one member to the Legislative Assembly.
- (4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

List of  
voters for  
each divi-  
sion.

XV. The Governor shall cause to be compiled from the list of qualified voters a list of the voters resident in each electoral division of the Colony as defined by the

Commissioners at the date of the commencement of the framing of the aforesaid first-mentioned list, and the list so compiled shall be the register of voters for such division until a new register is made as hereinafter prescribed.

XVI. There shall be a biennial registration of voters in every electoral division commenced not later than the last day of December in the year next but one after the commencement of the last preceding registration, and so on during each successive biennial period. The first biennial registration shall be commenced not later than the last day of December 1909.

Biennial  
registra-  
tion of  
voters.

XVII. Upon the completion of the voters' lists made in pursuance of the second biennial, and thereafter of every alternate biennial, registration, the Colony shall be redivided into electoral divisions for the purpose of the election of Members of the Legislative Assembly.

Redivision  
of the  
Colony  
into elec-  
toral divi-  
sions.

XVIII. For the purpose of every such redivision, the Governor in Council shall appoint three Commissioners as hereinbefore prescribed in the case of the first division of the Colony into electoral divisions, and the provisions of these Our Letters Patent with reference to the said first division of the Colony shall apply in the case of every such redivision, provided that the Commissioners shall proceed in accordance with the Regulations prescribed in the Third Schedule to these Our Letters Patent, and that for the Governor in the provisions aforesaid shall be substituted the Governor in Council.

Commis-  
sioners.

XIX. Any redivision of the Colony made as aforesaid shall come into operation at the next general election held after the completion of the redivision, and not earlier.

When re-  
division of  
Colony to  
come into  
operation.

XX.—(1) Any person (save as herein excepted) who shall be qualified to be registered as a voter in and for any electoral division shall be qualified and entitled to

Qualifica-  
tion of  
Members  
of Legisla-  
tive As-  
sembly.

be elected a Member of the Legislative Assembly for that or any other electoral division.

(2) No person holding any office of profit under the Crown within the Colony, other than a Minister, as hereinafter defined, a member of the Inter-Colonial Council, of the Liquor Licensing Court, or of any Commission appointed by the Governor in Council, or under the provisions of any law to make any public inquiry, no unrehabilitated insolvent, no person whose estate shall be in liquidation under assignment in trust for his creditors, and no person declared of unsound mind by a competent Court, shall be eligible to be elected a Member of the said Assembly.

(3) The receipt of a pension from the Crown, or by an officer of Our naval or military forces of retired or half pay, shall not be deemed to be holding an office of profit under the Crown.

(4) No person who has acted as a registering or revising officer in connection with the framing or revision of a voters' list for any electoral division shall be eligible to be elected as a Member for that division while such list is in force.

Speaker of  
Legislative  
Assembly.

XXI.—(1) The Legislative Assembly shall on their first meeting, before proceeding to the despatch of any other business, elect one of their Members to be Speaker of the said Assembly (subject to confirmation by the Governor) until the dissolution thereof, and in case of vacancy in the office another Speaker shall be elected in like manner, and subject to such confirmation as aforesaid.

(2) The seat of a Member elected to be Speaker shall thereupon become vacant, and a fresh election shall forthwith be held to fill the vacancy, and the Speaker shall not be a Member of the Legislative Assembly while he is Speaker.

Speaker to  
preside.

XXII. The Speaker or, in his absence, some Member

elected by the Legislative Assembly, shall preside at the meetings thereof.

XXIII. The Legislative Assembly shall not be disqualified from the transaction of business on account of any vacancies among the Members thereof, but the said Assembly shall not be competent to proceed to the despatch of business unless ten Members be present.

XXIV. Any Member of the Legislative Assembly may resign his seat therein by writing under his hand addressed to the Speaker, and upon the receipt of such resignation by the Speaker the seat of such Member shall become vacant :

Provided that no Member shall, without the permission of the Legislative Assembly, resign his seat while any proceedings are pending in respect of his election, if it is alleged in those proceedings that any corrupt or illegal practices took place at that election.

XXV.—(1) Whenever a vacancy occurs in the Legislative Assembly from any cause, other than as the result of an election petition, the Speaker shall, upon a Resolution of the said Assembly declaring such vacancy, inform the Governor thereof.

(2) Provided that if such vacancy occurs when the Legislative Assembly is not in session, the Speaker, or, in case of the death, incapacity, or absence from the Colony of the Speaker, the Clerk to the Assembly, may, on a certificate under the hands of two Members of the Assembly, stating that such vacancy has occurred and the cause thereof, inform the Governor thereof.

(3) The Governor, on receiving such information, shall cause the necessary steps to be taken as prescribed in the Second Schedule hereto for filling such vacancy.

#### LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY.

XXVI.—(1) There shall be a Session of the Legislature once at least in every year, so that a period of

Quorum.

Resignation of seat in Legislative Assembly.

Writes for filling vacancies.

Sessions of Legislature.

twelve months shall not intervene between the last sitting of the Legislature in one Session and the first sitting thereof in the next Session.

(2) The first Session shall be held within six months of the date when these Our Letters Patent shall commence to take effect.

Place and  
times of  
holding  
Sessions of  
Legisla-  
ture.

XXVII. The first and every other Session of the Legislature shall, until otherwise directed by law, be held in Bloemfontein at such times as may be notified by the Governor by Proclamation in the "Gazette."

Proroga-  
tion and  
dissolution  
of Legisla-  
tive Coun-  
cil and  
Legislative  
Assembly.

XXVIII.—(1) The Governor may from time to time prorogue the Legislature by Proclamation, which shall be published in the "Gazette," and the Governor may, whenever he shall think fit, dissolve the Legislative Assembly and any elected Legislative Council in like manner.

(2) The Governor shall dissolve the Legislative Assembly and any elected Legislative Council at the expiration of five years from the date of its election.

Governor  
may trans-  
mit Bills to  
Legisla-  
ture.

XXIX. The Governor may transmit by Message to the Legislative Council and the Legislative Assembly the draft of any Bill which it may appear to him desirable to introduce, and all such drafts shall be taken into consideration by the said Council and Assembly, as the case may be, in such convenient manner as shall be provided in that behalf by Rules of Procedure.

Oath to be  
taken by  
Members  
of Legisla-  
ture.

XXX.—(1) Every Member of the Legislative Council and Legislative Assembly, shall, before being permitted to sit or vote therein, take and subscribe the following oath before the President or Speaker respectively, or before such person as may be appointed thereto by the Governor, should such oath be required to be taken before the appointment or election of a President or Speaker, as the case may be:—

"I, A. B., do swear that I will be faithful and bear true allegiance to His Majesty King Edward the VIIth,



his heirs and successors, according to law. So help me God."

(2) Provided that any person authorised by law to make a solemn affirmation or declaration instead of taking an oath, may make such affirmation or declaration in lieu of such oath.

XXXI. All questions in the Legislative Council or Legislative Assembly shall be determined by a majority of the votes of Members present, other than the President, Speaker, or presiding Member, who shall, however, have and exercise a casting vote in case of an equality of votes.

XXXII. If any Member of the Legislative Council or Legislative Assembly—

(1) Shall fail for a whole ordinary annual Session to give his attendance in the Legislative Council or Legislative Assembly; or

(2) Shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power; or

(3) Shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power; or

(4) Shall become an insolvent or take advantage of any Law for the relief of insolvent debtors; or

(5) Shall be a public defaulter, or be attainted of treason, or be sentenced to imprisonment for any infamous crime; or

(6) Shall become of unsound mind; or

(7) Shall accept any office of profit under the Crown other than that of a Minister, that of a member of the Inter-Colonial Council, of the Liquor Licensing Court, or of any Commission appointed by the Governor in Council, or under any law to make any public inquiry, or that of an officer of Our naval and military forces on retired or half pay;

All questions to be decided by majority of votes.

Member's seat in Legislature, how vacated.

his seat shall become vacant, and if any person under any of the disqualifications herein mentioned shall, whilst so disqualified, knowingly sit or vote as a Member of the said Council or Assembly, such person shall forfeit the sum of one hundred pounds, to be recovered by the Attorney-General for the benefit of the Treasury by action in the High Court :

Saving of  
pensioners.

Provided that a person in receipt of pension from the Crown shall not be deemed to hold an office of profit under the Crown within the meaning of this section.

Standing  
Rules and  
Orders.

XXXIII.—(1) The Legislative Council and Legislative Assembly in their first Session, and from time to time afterwards, as there shall be occasion, shall each adopt Standing Rules and Orders, joint as well as otherwise, for the regulation and orderly conduct of their proceedings and the despatch of business, and for the order in which the said Council and Assembly shall confer, correspond, and communicate with each other, and for the passing, intituling, and numbering of Bills, and for the presentation of the same to the Governor for Our assent.

(2) All such Rules and Orders shall by the said Council and Assembly respectively be laid before the Governor in Council, and being by him approved shall become binding and of force.

(3) Provided that the Standing Rules and Orders of the Legislative Council as now subsisting shall, until altered, added to, or amended, be the Standing Rules and Orders of the Legislative Council and of the Legislative Assembly.

Officers of  
Legisla-  
ture.

XXXIV. The salary of the President of the Legislative Council and of the Speaker of the Legislative Assembly shall be such as may be prescribed by any Law of the Colony ; and the Chief Clerk for the time being of the Legislative Council and of the Legislative Assembly shall respectively be removable from office only in

accordance with a vote of the House of which he is an officer.

XXXV. It shall be lawful for the Legislature of the Colony by any Law to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the Members thereof respectively :

Privileges,  
etc., of  
Members.

Provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons' House of Parliament of Our United Kingdom, or the Members thereof.

XXXVI.—(1) All debates and discussions in the Legislative Council and Legislative Assembly shall be conducted in the English or Dutch language, and in no other language, and copies of the votes and proceedings of the said Council and Assembly, and of all proposed laws, shall be printed both in the English and Dutch languages.

Language  
in debates.

(2) Save as aforesaid, all journals, entries, minutes, and proceedings of the Legislative Council and Legislative Assembly shall be made and recorded in the English language.

Language  
in records.

XXXVII. There shall be paid out of the public revenue of the Colony to every Member of the Legislature the sum of one hundred and fifty pounds, together with the sum of two pounds for every day of the Session on which he has been in attendance: Provided that the sum paid to any such Member in any one calendar year shall not exceed three hundred pounds, and that no such payment shall be made to any such Member who is a Minister or who is President of the Legislative Council or to the Speaker of the Legislative Assembly.

Payment to  
Members.

#### LEGISLATION.

XXXVIII.—(1) It shall be lawful for Us and Our successors, by and with the advice and consent of the

Power to  
make laws.

Legislative Council and Legislative Assembly, subject to the provisions of these Our Letters Patent, to make all Laws, to be entitled "Acts," which shall be required for the peace, order, and good government of the Colony.

(2) A Law passed by the Legislative Council and Legislative Assembly may repeal or alter any of the provisions of these Our Letters Patent.

Disagree-  
ment be-  
tween the  
Legislative  
Council  
and the  
Legislative  
Assembly.

XXXIX.—(1) If the Legislative Assembly passes any proposed Law and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, and if the Legislative Assembly, in the next Session, again passes the proposed Law with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects, or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may during that Session convene a joint sitting of the Members of the Legislative Council and Legislative Assembly in the manner hereinafter provided, or may dissolve the Legislative Assembly, and may simultaneously dissolve both the Legislative Council and Legislative Assembly if the Legislative Council shall then be an elected Council. But such dissolution shall not take place within six months before the date of the expiry of the Legislative Assembly by effluxion of time.

(2) If after such dissolution the Legislative Assembly again passes the proposed Law, with or without any amendments, which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may convene a joint sitting of the Members of the Legislative Council and of the

Legislative Assembly, at which the Speaker of the Legislative Assembly shall preside.

(3) The Members present at any joint sitting convened under either of the preceding sub-sections, may deliberate and shall vote together upon the proposed Law, as last proposed by the Legislative Assembly, and upon amendments, if any, which have been made therein by the one House of the Legislature and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the Members of the Legislative Council and Legislative Assembly shall be taken to have been carried, and if the proposed Law, with the amendments, if any, so carried, is affirmed by an absolute majority of the total number of the Members of the Legislative Council and Legislative Assembly, it shall be taken to have been duly passed by the Legislature.

XL. When any Law has been passed by the Legislature it shall be presented for Our assent to the Governor, who shall declare according to his discretion, but subject to this Constitution and to any instructions in that behalf given to him under Our Sign Manual and Signet, or through a Secretary of State, that he assents in Our name, or that he withholds assent, or that he reserves the Law for the signification of Our pleasure.

XLI. Unless he shall have previously obtained Our instructions upon such Law through a Secretary of State, or unless such Law shall contain a clause suspending the operations of such Law until the signification in the Colony of Our pleasure thereupon.

The Governor shall reserve—

(a) Any Law whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable.

(b) Any Law which may repeal or alter any of the



provisions of these Our Letters Patent or of any Letters Patent or Orders in Our Privy Council relating to the Colony.

And whereas it is Our will and pleasure that all persons within Our dominions shall be free from any conditions of employment or residence of a servile character, the Governor shall reserve any Law providing for the introduction under contract, indenture, or licence, of labourers into the Colony from places outside South Africa.

Return of  
Bills by  
Governor  
to the  
Legisla-  
ture.

XLII. The Governor may return to the Legislative Council and Legislative Assembly any proposed Law so presented to him, and may transmit therewith any amendments which he may recommend, and the Legislative Council and Legislative Assembly may deal with the recommendation.

Disallow-  
ance by the  
King.

XLIII. It shall be lawful for Us, Our heirs and successors, to disallow any Law within two years from the date of the Governor's assent thereto, and such disallowance, on being made known by the Governor by speech or message to the Legislative Council and the Legislative Assembly, or by Proclamation, shall annul the Law from the day when the disallowance is so made known.

Significa-  
tion of  
King's  
pleasure  
on Bills  
reserved.

XLIV. A proposed Law reserved for Our pleasure shall not have any force unless and until, within two years from the day on which it was presented to the Governor for Our assent, the Governor makes known, by speech or message to the Legislative Council and the Legislative Assembly, or by Proclamation, that it has received Our assent.

Laws re-  
served  
when to  
take effect.

XLV. Whenever any Law has been reserved for the signification of Our pleasure thereon, and the Governor shall signify, either by message to the Legislature or by Proclamation in the "Gazette," that such Law has been laid before Us in Our Privy Council, and that We have

been pleased to assent to the same, an entry shall be made in the journals of the Legislative Council and Legislative Assembly of every such message or Proclamation, and a duplicate thereof duly attested shall be delivered to the proper officer, to be kept amongst the records of the Colony.

XLVI. The Governor shall cause every Law which shall have been assented to in Our name to be printed in the "Gazette," in both the English and Dutch languages, for general information. Laws to be printed in "Gazette."

XLVII. As soon as may be after any Law shall have been assented to in Our name by the Governor, or, having been reserved for the signification of Our pleasure, Our assent thereto shall, in manner aforesaid, have been signified by the Governor, the Clerk of the Legislative Assembly shall cause a fair copy of such Law, in the English language, signed by the Governor, to be enrolled on record in the Office of the Registrar of the High Court, and such copy shall be conclusive evidence as to the provisions of every such Law: provided, however, that the validity of any such law shall not depend upon the enrolment thereof. Copies of Laws to be enrolled.

XLVIII. Whenever any Law assented to by the Governor in Our name in manner aforesaid has been disallowed by Us, the Governor shall cause a certificate of such disallowance, certified under the Public Seal of the Colony, to be enrolled in the Office of the Registrar of the High Court. Certificates of disallowance to be enrolled.

#### THE MINISTRY.

XLIX. (1)—Within four months after the commencement of these Our Letters Patent the Governor may designate such offices as he thinks fit, not being more than five in number, to be offices of Ministers. Ministerial offices.

(2) Appointments to such offices shall be made by

the Governor in Our name, and such offices shall be held during Our pleasure.

(3) The holders of such offices shall be styled Ministers, and a Minister shall not vacate his seat in the Legislative Council or Legislative Assembly by reason of his appointment to or retention of any such office.

Rights of  
Ministers  
to speak  
and vote.

(4) Every Minister who is a Member of either House of the Legislature shall have the right to sit and speak both in the Legislative Council and Legislative Assembly, but shall vote only in the Council or Assembly (as the case may be) of which he is a Member.

#### JUDGES.

Judges' ap-  
pointment,  
tenure, and  
remunera-  
tion.

L. The Judges of the High Court—

(1) Shall be appointed by the Governor in Council ;

(2) Shall not be removed except by the Governor in Council on an address from the Legislative Council and Legislative Assembly, praying for such removal on the ground of proved misbehaviour or incapacity ;

(3) Shall receive such remuneration as shall from time to time be prescribed by Law, but the remuneration of a Judge shall not be diminished during his tenure of office.

(4) The remuneration of the present Judges shall not be diminished, and their commissions shall continue as heretofore.

#### INTERCOLONIAL COUNCIL.

Inter-  
colonial  
Council.

LI. (1)—(a) The Intercolonial Council, established under the Intercolonial Council South Africa Orders in Council, shall continue to exercise such powers and perform such duties as it has hitherto exercised and performed.

(b) On the date of the election of the Legislative Assembly, the four Members of the Council nominated by the Lieutenant-Governor, and the four Members of

the Council elected from among themselves by the Members of the present Legislative Council of the Colony, shall cease to be Members of the said Intercolonial Council.

(c) The vacancies caused on the said Council as aforesaid, and the vacancy caused by the abolition of the office of Lieutenant-Governor of the Colony, shall be filled by—

(1) Five Members of the Legislative Assembly to be elected by it from among the Members thereof as soon as practicable after its first meeting; and

(2) Four persons to be appointed thereto by the Governor in Council.

(d) Provided that it shall be lawful for the Governor, prior to such election or appointment, to appoint such persons as he may think fit to fill vacancies on the said Council or on the Railway Committee thereof, caused as aforesaid, who shall hold office as Members of the Council until the said election and appointment as aforesaid, and as Members of the said Committee until the appointment of a Railway Committee by the Intercolonial Council according to Law.

(2) The Government of the Orange River Colony or the Government of the Transvaal may, at any time after Ministers have been appointed under Responsible Government in both Colonies, give notice either to the other to terminate the Council or any of the services now administered by it, or on its advice; and at the expiration of six months from the date of such notice the Council shall cease to exist, or such service shall be terminated and no longer administered by the said Council, or on its advice, as the case may be; and the said Intercolonial Council South Africa Orders in Council shall cease to be operative either entirely or in respect of the service so terminated, as the case

may be, without prejudice to anything lawfully done thereunder.

(3) All the property administered by or on the advice of the said Council, and all its rights and liabilities in connection therewith, shall, on the termination of the said Council, or on the termination of any service administered by or on its advice, in so far as such property, rights, and liabilities relate to such service, be equitably apportioned and divided between the Governments of the said Colonies, provided always that no such apportionment or division shall be carried out in such a way as to affect the rights of creditors or any mortgage or security upon any property now vested in the High Commissioner and Governor as the common property of both Colonies, and in particular any mortgage charge or security securing the payment of the capital and interest of the loan authorised by the Ordinance of the Transvaal intituled the "Transvaal Guaranteed Loan Ordinance, 1903." For the purposes of such apportionment and division the aforementioned loan shall be deemed and taken to be a liability of the Council.

(4) In default of agreement between the Government of the Colony and of the Government of the Transvaal touching any such apportionment and division, or any matter consequent upon the termination of the Council or of any service administered by it, such matter shall, if both Governments agree thereto, be referred to arbitration, and in default of such agreement, then, upon the petition of either Government, shall be referred to Us in Our Privy Council, and Our said Council shall have power to hear and finally determine the same, and the Government of the Colony shall thereupon take all such action as may be necessary to carry out the decision of Our said Council.



## NATIVE ADMINISTRATION.

LII.—(1) The Governor shall exercise over all Chiefs and natives in the Colony all power and authority now or at any time hereafter vested in him as Paramount Chief. Governor to continue to have authority over natives.

(2) The Governor in Council may at any time summon an assembly of native Chiefs, and also, if it shall seem expedient, of other persons having special knowledge and experience in native affairs, to discuss with the Governor, or such representative as the Governor in Council may appoint, any matters concerning the administration of native affairs or the interests of natives, and the Governor in Council shall consider any reports or representations submitted to him by any such assembly, and shall take such action thereupon as may seem necessary or proper. Assemblies of Chiefs, etc.

(3) No lands which have been, or may hereafter be, set aside for the occupation of natives shall be alienated or in any way diverted from the purposes for which they are set apart otherwise than in accordance with a Law passed by the Legislature. Native lands.

## LAND SETTLEMENT.

LIII. (1)—(a) There shall be established in the Colony on the appointed day (as hereinafter defined) a Board, to be called the Orange River Colony Land Settlement Board, for the purpose of exercising and discharging, in respect of the lands, houses, and other fixed property hereinafter mentioned and the persons in occupation of them, the rights and duties conferred and imposed upon the Government of the Colony or any Member thereof by any Law of the Colony or by any Agreement between such persons and the Government. For the purposes of this section persons in occupation shall include persons who, after the appointed day may

become the lawful occupiers of any such lands, houses, or other fixed property.

(b) The Board shall be a Body Corporate, and shall consist of three Members, resident in the Colony, one of whom shall be Chairman. The Chairman and Members of the said Board shall be appointed by the Governor, and shall hold office during his pleasure, and be paid such salaries as he may determine. Two Members of the Board shall form a quorum.

If any vacancy arises on the Board, the Governor shall appoint some other person residing in the Colony to fill such vacancy.

(c) It shall be lawful for the Governor to appoint, at such salaries as he may determine, such officers as may be necessary to assist the Board in carrying out the purposes for which it is established, whether from the existing staff of the Land Settlement Department or otherwise, provided that all Members of the existing staff of the Land Settlement Department so appointed whose offices are on the appointed day included in the Schedule to the "Pensions Ordinance, 1904," or any amendments thereof, shall be entitled to reckon their subsequent service with the Land Settlement Board for pension purposes under the laws of the Colony and to make rules and regulations—

- (1) For the proper discharge by the Board and the aforesaid officers of the duties imposed on them ;
- (2) For the proceedings of the said Board ;
- (3) For the proper keeping of and auditing of the accounts of the said Board.

(2)—(a) There shall, on the appointed day, be transferred, without payment of transfer duty, stamp duty, or registration charges in the Deeds Office of the Colony, to and in the name of the Board and for the purposes aforesaid, such of Our lands in the Colony as are on the

appointed day held by settlers on the conditions prescribed in the Ordinance of the Colony intituled the "Lands Settlement Ordinance, 1902," or any Ordinance amending the same, or any Agreement made under the said Ordinances, and all houses and other fixed property situated within any town or village and purchased by the Government out of funds allocated for the purposes of land settlement.

For the purposes of this section such lands shall be deemed to be held by settlers as aforesaid on the appointed day as shall then be in the possession and occupation of purchasers or lessees under the said Ordinances, or of intending purchasers or lessees to whom such lands have been allotted, notwithstanding that their Agreements have not been completed, or notwithstanding that the boundaries of such lands have not been fully determined.

(b) There shall further be transferred, on the appointed day, to the Board for the aforesaid purposes, all movable property vested in the Government of the Colony and used in connection with the said lands, houses, or other fixed property, all rights and obligations acquired or incurred by the Government against or towards the persons in occupation of the said lands and in respect thereof, and all cattle, sheep, or other live-stock purchased out of the aforesaid funds, and used or held by the Land Settlement Department for purposes connected with land settlement.

(c) There shall further be transferred to the Board for the said purposes, and more especially for the purposes of making advances under the authority of the said Lands Settlement Ordinances to the persons in occupation of the aforementioned lands, all moneys paid to the said Government by such persons as aforesaid in discharge of their obligations to it, and held by it on the appointed day for or on account of land settlement, and

any balance of money appropriated by the Intercolonial Council to the said Government out of the loan authorised by the "Transvaal Guaranteed Loan Ordinance, 1903," for the purposes of land settlement, together with such further sums as may be approved by a Secretary of State, out of moneys hereafter appropriated to the Government by the said Council for land settlement purposes.

(3)—(a) The said Board may, with the approval of the Governor, exercise all the rights and discharge all the duties conferred and imposed by law or agreement on the Government of the Colony, or any Member thereof in respect of the aforementioned lands, houses, or other fixed property and the persons in occupation of them, and may appropriate to such purpose and generally to the cost of carrying out this section any moneys paid to it after the appointed day by such persons as aforesaid in discharge of any obligations incurred by them to the Government, as well as any moneys transferred to it under subsection 2 (c) of this section.

(b) The said Board, with the approval of the Governor, when and as it may deem necessary and equitable, may remit or defer payment of any moneys due to it by settlers.

(4)—(a) The rights, powers, and duties conferred and imposed by this section on the Board shall be determined on the expiration of five years reckoned from the appointed day ; provided always that it shall be competent for the Government of the Colony to make an agreement, subject to the consent of the Governor and with the approval of a Secretary of State, with the Board in respect of the matters referred to in this section, whereby the said rights, powers, and duties aforesaid shall be sooner determined.

(b) On the determination of the said rights, powers, and duties the Board shall transfer to the Governor in

Council the aforementioned lands, houses, and other fixed property registered in its name and all movable property, moneys, rights, and obligations acquired and incurred by it under the provisions of this section, and the Board shall thereupon be dissolved.

(5) The appointed day shall be such day as may be proclaimed by the Governor in the "Gazette."

#### GENERAL PROVISIONS.

LIV. All taxes, imposts, rates, and duties, and all territorial, casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony over which the Legislative Council and Legislative Assembly have power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the public service of the Colony in the manner and subject to the charges hereinafter mentioned.

LV.—(1) The Consolidated Revenue Fund shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof.

(2) All such costs, charges, and expenses shall be subject to be reviewed and audited in such manner as may from time to time be directed by any Law passed by the Legislature.

LVI. All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the Legislative Assembly.

LVII. The Legislative Council may either accept or reject any Money Bill passed by the Legislative Assembly, but may not alter it.

LVIII.—(1) It shall not be lawful for the Legislative Assembly to pass any law, vote, or resolution which shall have the effect of appropriating any part of Our revenue within the Colony or of imposing any rate, tax,

Consolidated Revenue Fund.

Costs of collection and management of fund.

Appropriation and Taxation Bills to originate in Legislative Assembly.

Powers of Legislative Council thereon.

Manner in which the public revenue shall be appropriated to the public service.



or duty, unless such law, vote, or resolution has been first recommended to the Assembly by message of the Governor during the Session in which it is proposed.

(2) No part of Our revenue within the Colony shall be issued except in pursuance of a Warrant under the hand of the Governor directed to the Colonial Treasurer.

Reserved  
Civil List.

LIX.—(1) There shall be payable to Us in every year, out of the Consolidated Revenue Fund, the sums mentioned in Schedules 4 and 5 to these Our Letters Patent for defraying the expenses of the services and purposes set forth in the said Schedules.

(2) The said several sums shall be issued by the Treasurer in discharge of such Warrants as shall from time to time be directed to him under the hand of the Governor.

Appoint-  
ments to  
public  
offices.

LX. The appointment to, and removal from, all public offices under the Government of the Colony hereafter to become vacant or to be created, save those of Ministers, shall, subject to any Law hereafter in force in the Colony, be vested in the Governor in Council.

Pensions  
on retire-  
ment of  
certain  
official  
Members  
of the  
Executive  
Council.

LXI.—(1) In the event of the retirement from office of any Member of the Executive Council named in Schedule 5 hereto, such Member shall, subject to the proviso hereafter contained, be entitled to the pension set opposite his name in the said Schedule :

(2) Provided that if any such Member shall accept any other appointment under the Crown in the Colony or elsewhere, his pension or retiring allowance shall, during the tenure of such appointment, merge or be reduced *pro tanto*, according as the salary or emolument of any such appointment shall be equal to or less than the pension or retiring allowance of such Member.

Powers of  
Lieuten-  
ant-Gover-  
nor to be  
exercised  
by Gover-  
nor in  
Council.

LXII.—(1) Where, under any Law of the Colony, any power, jurisdiction, or authority is at the date of the commencement of these Our Letters Patent exercised by the Lieutenant-Governor, such power, juris-

diction, or authority shall be exercised by the Governor in Council, and where, under any Law, any power, jurisdiction, or authority has been conferred on any member of the existing Executive Council of the Colony, such power, jurisdiction, or authority shall be exercised by the Minister to whom it shall be assigned by the Governor in Council.

(2) Where in any existing Law the words "Legis-<sup>Meaning of</sup>lative Council" occur, they shall, unless the context<sup>"Legisla-</sup> otherwise indicates, be read as if they were "Legislative<sup>tive Coun-</sup> Council and Legislative Assembly."<sup>cil" in</sup>  
<sup>existing</sup>  
<sup>Laws.</sup>

LXIII. The Governor may, by proclamation in the<sup>Power to</sup> "Gazette," at any time before the date of the nomina-<sup>amend by</sup> tion of persons for election as Members of the Legisla-<sup>Proclama-</sup> tive Assembly, and provided that Our approval be previously signified to him through a Secretary of State, vary, annul, or add to any of the provisions of these Our Letters Patent in order to carry out the purposes of the same, and may provide for any other matter neces- sary in order to carry into effect the provisions thereof.

LXIV. In these Our Letters Patent, unless the con- trary intention appears—

"Date of the election of the Legislative Assembly"<sup>Defini-</sup> means the date of the Proclamation in the "Gazette"<sup>tions.</sup> of the persons elected as members of the Legislative Assembly at a General Election.

"Gazette" means the Orange River Colony Govern- ment Gazette.

"Governor" means the officer for the time being ad- ministering the government of the Colony.

"Governor in Council" means the Governor acting by and with the advice of the Executive Council.

"Secretary of State" means one of Our Principal Secretaries of State.

LXV. These Our Letters Patent shall be proclaimed<sup>Com-</sup> at such place or places within the Colony as the Governor<sup>mence-</sup> Patent.<sup>ment of</sup>  
<sup>Letters</sup>

Revocation  
of earlier  
Letters  
Patent, etc.

shall think fit, and shall commence and come into operation on a day to be fixed by the Governor by proclamation in the "Gazette," and thereupon the Letters Patent and Instructions, described in Shedule 6 hereto, shall, without prejudice to anything lawfully done thereunder, be revoked.

Short title.

LXVI. These Our Letters Patent may be cited as "The Orange River Colony Constitution Letters Patent, 1907."

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, this Fifth day of June, in the seventh year of Our Reign.  
By Warrant under the King's Sign Manual.

MUIR MACKENZIE.

(b) LETTERS PATENT CONSTITUTING THE OFFICE OF GOVERNOR,  
5 June, 1907.

[Parl. Pap., Cd. 3526, pp. 42-44.]

Letters  
Patent dated  
5th June,  
1907.

LETTERS PATENT PASSED UNDER THE GREAT SEAL OF THE UNITED KINGDOM, CONSTITUTING THE OFFICE OF GOVERNOR AND COMMANDER-IN-CHIEF OF THE ORANGE RIVER COLONY.

Edward the Seventh, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To all to whom these Presents shall come, Greeting.

Recites  
Letters  
Patent of  
the 2nd  
August,  
1901.

WHEREAS by Our Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the 2nd day of August, 1901, We did constitute the Office of Governor and Commander-in-Chief of Our Orange River Colony, and did provide for the Government of Our said Colony:

And whereas We are minded to make further provision for the Government of Our said Colony:

Now know ye that We do declare Our Will and Pleasure to be as follows:—

I. There shall be a Governor and Commander-in-Chief in and over Our Orange River Colony, and appointments to the said Office shall be made by Commission under Our Sign Manual and Signet. Appointment of Governor.

II. Our Orange River Colony (hereinafter called the Colony) shall comprise all places, settlements, and territories which formed part of the territories of the Orange Free State at the date when the said territories were annexed to and became part of Our dominions. Limits of Colony.

III. We do hereby authorise, empower, and command Our said Governor and Commander-in-Chief (hereinafter called the Governor), to do and execute all things that belong to the said Office of Governor according to the tenour of these and any other Our Letters Patent, having effect within the Colony, and of such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony. Governor's powers and authorities.

IV. Every person appointed to fill the Office of Governor shall, with all due solemnity, before entering on any of the duties of his Office, cause the Commission appointing him to be Governor to be read and published in the presence of the Chief Justice of the Colony or of some other Judge of the High Court, and such of the members of the Executive Council of the Colony who can conveniently attend, which being done, he shall then and there take before them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of the Reign of Her late Majesty, Queen Victoria, intituled Publication of Governor's Commission. Oaths to be taken by Governor.

Imperial  
Act, 31 and  
32 Vict.,  
c. 72.

“An Act to amend the Law relating to Promissory Oaths”; and likewise the usual Oath for the due execution of his Office, and for the due and impartial administration of justice, which oaths the said Chief Justice or Judge is hereby required to administer.

Public  
Seal.

V. The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the said Seal.

Executive  
Council.

VI. There shall be an Executive Council in and for the Colony, and the said Council shall consist of such persons being Ministers or other persons as the Governor shall, from time to time in Our name and on Our behalf, but subject to any law of the Colony, appoint under the Public Seal of the Colony to be members thereof. Subject to any such law the members of the Executive Council shall hold office during Our pleasure: Provided that the members of the Executive Council existing at the commencement of these Our Letters Patent may if the Governor thinks fit continue to hold office until the appointment of Ministers.

Grant of  
lands.

VII. The Governor may, in Our name and on Our behalf, make and execute, under the Public Seal, grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us.

Appoint-  
ment of  
Officers.

VIII. The Governor may constitute and appoint in Our name and on our behalf all such Officers in the Colony as may be lawfully constituted or appointed by Us.

Suspension or removal  
from office.

IX. The Governor may, so far as We Ourselves lawfully may, upon sufficient cause to him appearing, remove from his office, or suspend from the exercise of the same, any person holding any office or place within the Colony under or by virtue of any Commission or Warrant or other Instrument granted, or which may be granted, by Us or in Our name or under Our authority, or by any other mode of appointment.



X. When any crime or offence has been committed within the Colony, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one ; and further, may grant to any offender convicted of any such crime or offence in any Court, or before any Judge or Magistrate, within the Colony, a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as he may think fit, and may remit any fines, penalties, or forfeitures due or accrued to Us : Grant of pardon.  
 Provided always, that if the offender be a natural-born British subject, or a British subject by naturalisation in any part of Our Dominions, the Governor shall in no case, except where the offence has been of a political nature unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself or be removed from the Colony. Remission of fines. Proviso. Banishment. Exception. Political offences.

XI. In the event of the death, incapacity, removal, or absence from South Africa of the Governor, or of his being from any cause prevented from acting in the duties of his office, all and every the powers and authorities granted to him shall, until Our further pleasure is signified therein, be vested in such person as We may appoint under Our Sign Manual and Signet, and such person shall have and exercise all such powers and authorities until Our further pleasure shall be signified : Succession to the Government in the event of the death, etc., or absence of the Governor from South Africa.  
 Provided that no such powers or authorities shall vest in such person until he shall have taken the oaths hereinbefore directed to be taken by the Governor of the Colony, and in the manner herein prescribed.

Temporary  
absence of  
the Govern-  
nor.

XII. Whenever and so often as the Governor shall be temporarily absent from the Colony in pursuance of any Instructions from Us through one of Our Principal Secretaries of State, or in the execution of any Letters Patent or any Commission under Our Sign Manual and Signet appointing him to be Our High Commissioner or Special Commissioner for any territories in South Africa with which it may be expedient that We should have relations, or appointing him to be Governor or to administer the Government of any Colony, province, or territory adjacent or near to the Colony, or shall be absent from the Colony for the purpose of visiting Our High Commissioner for South Africa or the Governor or Officer Administering the Government of Our Colony of the Cape of Good Hope, or some other neighbouring Colony or State, for a period not exceeding one month, then and in every such case the Governor may continue to exercise all and every the powers vested in him as fully as if he were residing within the Colony.

Governor  
may ap-  
point a  
Deputy  
during his  
temporary  
absence  
from seat  
of Govern-  
ment or  
from the  
Colony.

XIII. In the event of the Governor having occasion to be temporarily absent for a short period from the seat of Government or from the Colony, he may, in every such case, by an Instrument under the Public Seal of the Colony, constitute and appoint any person to be his Deputy within the Colony, or any part thereof, during such temporary absence, and in that capacity to exercise, perform, and execute for and on behalf of the Governor during such absence, but no longer, all such powers and authorities vested in the Governor, as shall in and by such Instrument be specified and limited, but no others. Every such Deputy shall conform to and observe all such Instructions as the Governor shall from time to time address to him for his guidance : Provided, nevertheless, that by the appointment of a Deputy, as aforesaid, the power and authority of the Governor shall not be abridged, altered, or in any way affected, other-

wise, than We may at any time hereafter think proper to direct :

Provided further that, if any such Deputy shall have been duly appointed, it shall not be necessary during the continuance in office of such Deputy for any person to assume the Government of the Colony as Administrator thereof.

XIV. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of the Colony, to be obedient, aiding and assisting unto the Governor, or to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Colony.

Officers  
and others  
to obey the  
Governor.

XV. In the construction of these Our Letters Patent, the term " the Governor," unless inconsistent with the context, shall include every person for the time being administering the Government of the Colony.

Term "the  
Governor" explained.

XVI. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent, as to Us or them shall seem fit.

Power reserved to  
His Majesty to  
revoke, alter, or  
amend  
present  
Letters  
Patent.  
Proclamation of  
Letters  
Patent.

XVII. And We do direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit, and shall commence and come into operation on a day to be fixed by the Governor by Proclamation in the Orange River Colony Government Gazette.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourself at Westminster, this fifth day of June, in the seventh year of Our Reign.

By Warrant under the King's Sign Manual.

MUIR MACKENZIE.

(c) INSTRUCTIONS TO THE GOVERNOR, 5 JUNE, 1907.

[Parl. Pap., Cd. 3526, pp. 44-46.]

INSTRUCTIONS PASSED UNDER THE ROYAL SIGN MANUAL AND  
SIGNET TO THE GOVERNOR AND COMMANDER-IN-CHIEF OF  
THE ORANGE RIVER COLONY.

EDWARD R. &amp; I.

*Dated 5th  
June, 1907.*

INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Orange River Colony, or other Officer for the time being administering the Government of Our said Colony.

Given at Our Court at Saint James's, this fifth day of June, 1907, in the seventh year of Our Reign.

Preamble. WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Orange River Colony (therein and hereinafter called the Colony):

Recites  
Letters  
Patent,  
constituting the  
Office of  
Governor.

And whereas We have by the said Letters Patent authorised, empowered, and commanded the Governor to do and execute all things that belong to his said office, according to the tenor of the said Letters Patent and any other Our Letters Patent having effect within the Colony, and of such Commission as may be issued to him under our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony :

Now, therefore, We do hereby direct and enjoin and declare Our Will and pleasure to be as follows:—

"Term  
"Governor."  
nor."

I. In these Our Instructions, unless inconsistent with the context, the term "Governor" shall include every

person for the time being administering the Government of the Colony.

II. The Governor may, whenever he thinks fit, require any person in the public service to take the Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Law in force in the Colony. The Governor is to administer such Oaths or cause them to be administered by some Public Officer of the Colony.

Oaths to be administered by Governor.

III. The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as he shall find convenient for Our service to impart to them.

Governor to communicate Instructions to Executive Council.

IV. The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Governor, nor unless two Members at the least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

Executive Council not to proceed to business unless summoned by the Governor's authority. Quorum.

V. The Governor shall attend and preside at the meetings of the Executive Council, unless prevented by some necessary or reasonable cause, and in his absence such Member as may be appointed by him in that behalf, or in the absence of such Member the senior Member of the Executive Council actually present shall preside. The seniority of the Members of the said Council shall be prescribed by the Governor.

Governor to preside, and in his absence such Member as he may appoint, or the senior Member to preside. Seniority of Members.

VI. In the execution of the powers and authorities vested in him, the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, with the reasons for his so acting.

Governor to take advice of Executive Council.

In any such case it shall be competent to any Member



of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

Descrip-  
tion of laws  
not to be  
assented  
to.

VII. The Governor shall not assent in Our name to any law of any of the following classes :—

1. Any law for divorce.
2. Any law whereby any grant of land or money, or other donation or gratuity, may be made to himself.
3. Any law affecting the currency of the Colony.
4. Any law imposing differential duties.
5. Any law the provisions of which shall appear inconsistent with obligations imposed on Us by Treaty.
6. Any law interfering with the discipline and control of Our forces in the Colony by land or sea.
7. Any law of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies, may be prejudiced.
8. Any law containing provisions to which Our assent has been once refused, or which have been disallowed by Us:

Unless he shall have previously obtained Our instructions upon such law through one of Our Principal Secretaries of State, or unless such law shall contain a clause suspending the operation thereof until the signification in the Colony of Our pleasure thereupon.

Regulation  
of power of  
pardon in  
capital  
cases.

VIII. Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor shall consult the Executive Council upon the case of such offender, submitting to the Council any Report that may have been made by the Judge who tried the case; and, whenever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor shall not pardon or reprieve any such offender unless it shall appear to

Judge's Re-  
port to be  
laid before  
Executive  
Council.

him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering, nevertheless, on the Minutes of the Executive Council a Minute of his reasons at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

Governor  
to consult  
Executive  
Council in  
such cases.

May exer-  
cise his  
own judg-  
ment.

Entering  
his reason  
on the  
Council  
Minutes.

IX. All Commissions granted by the Governor to any persons to be officers in the Colony shall, unless otherwise provided by law, be granted during pleasure only.

Officers to  
be appoint-  
ed during  
pleasure.

X. Except in accordance with the provisions of any Letters Patent or of any Commission under Our Sign Manual and Signet, the Governor shall not, upon any pretence whatever, quit the Colony without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting the High Commissioner for South Africa or the Governor or Officer Administering the Government of some neighbouring Colony or State, for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Colony.

Governor  
not to quit  
the Colony.

Temporary  
leave of  
absence.

XI. The temporary absence of the Governor for any period not exceeding one month shall not, if he have previously informed the Executive Council, in writing, of his intended absence, and if he have duly appointed a Deputy in accordance with the above recited Letters Patent, nor shall any extension of such period sanctioned by one of Our Principal Secretaries of State and not exceeding fourteen days, be deemed absence from the Colony within the meaning of the said Letters Patent.

Governor's  
absence  
from the  
Colony.

LXX. THE HIGH COMMISSIONER TO THE SECRETARY  
OF STATE CONVEYING A STATEMENT OF THE  
TRANSSVAAL GOVERNMENT, 2 July, 1907.

[Parl. Pap., Cd. 3564, p. 108.]

TELEGRAM.

July 2. No. 83. Following statement expressing views of Transvaal Government is being circulated to the other Governments for publication simultaneously with documents referred to in my telegram to-day<sup>1</sup> and should be published with those documents in England also :—

*Begins:* "I am requested by Transvaal Government to remind you that the despatch and accompanying Memorandum on the subject of the federation of the British South African Colonies from the High Commissioner and Governor of the Transvaal of 7th January, 1907, were written and sent before they came into office and that therefore they cannot be supposed to associate themselves with all the views expressed therein, especially those parts which concern the policy of the Transvaal towards Portuguese East Africa. They adhere to their often expressed opinion in favour of the federation of South Africa and they cordially agree with most of the opinions expressed in the despatch and the Memorandum but their attitude towards Portuguese East Africa will always be that of sincere friendship, and they would welcome a solution of the federation question which would extend the comity of South African co-operation to the province of Mozambique." *Ends.* SELBORNE.

<sup>1</sup> Not printed.

LXXI. RESOLUTIONS ADOPTED BY AN INTER-COLONIAL  
CONFERENCE CONVENED FOR THE DISCUSSION OF  
THE TARIFF AND RAILWAY RATES, PRETORIA,  
5 May, 1908.

[Cape of Good Hope, Debates in the House of Assembly, 1908, p. 38.]

RESOLVED :—

(a) That in the opinion of this Conference, the best interests and the permanent prosperity of South Africa can only be secured by an early union, under the Crown of Great Britain, of the several self-governing Colonies ;

(b) That to the union contemplated in the foregoing resolution Rhodesia shall be entitled to admission at such time and on such conditions as may hereafter be agreed upon ;

(c) That the members of this Conference agree to submit the foregoing resolutions to the Legislatures of their respective Colonies, and to take such steps as may be necessary to obtain their consent to the appointment of delegates to a National South African Convention, whose object shall be to consider and report on the most desirable form of South African Union and to prepare a draft Constitution. ;

(d) The Convention shall consist of not more than twelve delegates from the Cape Colony, not more than eight delegates from the Transvaal, not more than five delegates from Natal, and the Orange River Colony respectively, and it shall meet as soon as convenient after the next sessions of all the Parliaments ; provided that as soon as at least two Colonies shall have appointed their delegates, the Convention shall be considered as constituted ;

(e) The Convention shall publish the draft Constitution as soon as possible, and shall, in consultation with the Governments of the self-governing Colonies, determine the further steps to be taken in reference thereto ;

(f) In the Convention, the voting shall be *per capita* and not by States. A chairman shall be elected from the members who shall have the right of speaking and voting, and in the event of an equality of votes, shall have a casting vote.

On Mr. Merriman's motion the Cape House of Assembly on 24 June, 1908, unanimously resolved

“That this House concurs in resolutions with regard to Closer Union passed at the Pretoria Inter-Colonial Conference, on the 5th May, 1908.”

On the motion of Mr. Moor the Natal House of Assembly concurred in July, 1908; the Transvaal Assembly also concurred.

## LXXII. EXTRACTS FROM SPEECH OF GOVERNOR SIR WALTER HELY-HUTCHINSON IN OPENING THE CAPE PARLIAMENT, 19 June, 1908.

[Cape of Good Hope, Debates in the House of Assembly, 1908, p. 33.]

Since the termination of the special session a few weeks ago, a Conference of representatives of the several Colonies in South Africa has met at Pretoria, and after a short adjournment, again at Cape Town. . . .

I am glad to be able to announce that the delegates to that Conference have unanimously agreed to a resolution on the subject of the Closer Union of the various Colonies in South Africa, which I earnestly hope may, with the blessing of the Almighty, be the first step in laying the foundation of a strong and united Commonwealth in this country under the British Crown.

✓ You will be asked to give your assent to the proposal to hold a National Convention for the consideration of the steps necessary to establish a United South Africa, and to nominate delegates to such Convention.

It was unfortunately not found possible to arrive at any basis of common agreement on the subjects of Customs and railway matters that would reconcile the



divergent interests of the communities concerned. The true solution for this difficulty will probably be found in Union, and it was with this conviction deemed wiser to continue, with a few trifling alterations, the present, not wholly satisfactory arrangement pending the consideration of the larger issue.

LXXIII. EXTRACTS FROM SPEECH OF MR. J. X. MERRIMAN, PREMIER OF CAPE COLONY, IN THE HOUSE OF ASSEMBLY ON THE PROPOSAL FOR A NATIONAL CONVENTION, 22 June, 1908.

[Cape of Good Hope, Debates in the House of Assembly, 1908, pp. 38-42.]

Mr. MERRIMAN moved :—

“ That this House concurs in resolutions with regard to Closer Union passed at the Pretoria Inter-Colonial Conference, on the 5th May, 1908.”

He said that it was impossible for him to over-estimate the importance of the resolutions he had the honour to submit to the House . . . He had said that this was an important question. . . . It meant, in brief, whether they were to take the first step now towards laying the foundation of making themselves a united people in South Africa, of making, as some people said, a nation. From the point of view of mere economy of government, it meant a very great deal, but it meant a great deal more from the fact that if they were able to speak as a united people in South Africa, they would get rid of a great deal of that mischievous interference which had been, and was being, the bane of the different States in this country. It would be recollected that it was announced during the last session of Parliament that their representatives were going to attend the Conference at Pretoria. The first important question

submitted to the Conference was the question of the possibility of taking some steps to give a practical shape to those aspirations in the way of Closer Union which had long been merely floating in the air. The best possible spirit was evinced on that occasion. There was hardly—in fact, there was no jarring note. All the different States were at one upon the point of desiring that this question of Closer Union should be brought to some practical test, because it was felt by every one of those present that although there were certain sacrifices—it might be sacrifices of sentiment—to be made in effecting Closer Union, and that each State would have to give up something, yet on the whole, by attempting to weld themselves into one people they would gain a great deal more than they would lose. Some States—he need not mention them—were economically in a very good position; others were perhaps not in quite such a good position; but, on the other hand, in the Cape Colony they had half the European population in South Africa, and, as he had said over and over again, the best asset for any country was its population; and therefore to any Union, to any common stock, the Cape Colony would bring a large share of European population and good traditions in the way of government, and he hoped they would be the true Mother State. In the same way, naturally, the colony of Natal might have to give up something in the shape of its remarkably picturesque individuality, but at the same time they should not lose sight of the fact that in joining the larger Union they would get rid of many of those difficulties which now weighed upon every person in Natal. Natal at the present moment was in the unhappy position of holding a wolf by the ears—if he might so express himself—not an agreeable thing for any State. Those difficulties and those dangers would be swept away, it was to be hoped, for ever, when they joined in the Union of South Africa.

The question might remain: "What is the necessity for forcing this thing on?" "Why not," he heard some voices say in the press and elsewhere, "why not wait? Have a Commission; have an inquiry. You have had no mandate from the people of South Africa to unite." He would have thought that if there was one question which had been thoroughly talked about for years past, it was the question of Closer Union. It had been a platitude upon almost every platform, and one that had never failed to bring down the house, that we hoped some day, and at no distant time, to become all one people, and that we should be able to undertake the great task which had been given to us of civilising and of raising the large native population of this country, and that we should be able to undertake it with greater force as being one people and one country. That, he should have thought, there was no doubt about. There was no need to delay in order to find out whether that was necessary. . . . The great thing was to try and get together a body of people sufficiently large and sufficiently important to discuss those things, with a view, not to accentuating the difficulties, not to see how stumbling blocks could be put in the way of Closer Union, but with a view to trying to get over those difficulties, and to insist upon the carrying out of what he believed was unquestionably the mandate of the great bulk of the population of this country. There were other reasons also which induced him to impress upon the House the necessity for immediate action in the matter. They had first of all to consider the portentous cost of the government of South Africa split up as it was into different States. . . . They in this country were a mere handful; they counted last year 1,151,000 people. They had four separate Parliaments, 325 members of Parliament, and four separate Ministries, and he thought that they would agree with him that this country was

over-governed. They had four separate Governors and their staffs, where one could do the work. Every colony, too, had its own little band of experts, and their energies were dissipated by being spread over four separate Governments, instead of being under one control, and they had not to go very far to see that in many matters it was necessary that they should have common action. But, he felt bound to say that there was another question, and that was their own fiscal arrangements. The effect of the present artificial arrangement was, that from the body of the people was taken the power of taxing themselves. He had always protested that it was a most unfortunate thing for a number of gentlemen, who did not represent all sections of the community, to meet in a chamber here or there, and to settle the taxation of the people of the country, without the people of the country having a voice in the matter. The Convention was then brought down and presented to the representatives of the people by a Minister, who had a pistol in his other hand, and who said: "If you don't take this, you must take the responsibility of breaking up this arrangement and entering into squabbles with the other States." It had been forced upon every member of the Convention that they must do either one of two things at a very approximate date. They must either unite or break. They must either unite and form one people, or they must break up into constituent items, each one to go its own way. He would go one step further, and would say, with the deepest regret, that they must either unite, or, he feared, fight. They would be faced with the most bitter trade competition in every direction, unless they united. For those reasons, if for no others, they wished to push the matter forward with as great rapidity as possible, within the forms of the House. He was not then going into detail as to what the exact form of union should be. He himself

and his friends were Nationalists. They believed that the future union of South Africa should be, as far as possible, to make this one people, with one Parliament, with strong local powers devolving upon the different parts of South Africa. There might be others who held a different view, who might consider that the principle of States' rights carried great weight. If he might venture to call them a name, he would call them parochialists, honest parochialists, who believed that the interests of a particular community were of more value than the interests of the whole body of the people of South Africa. However, those questions had to be fought out at the Convention; and he hoped the decision would be in the direction he had indicated. He did not shut his eyes to the fact that in other Federations people were also strongly in favour of a united form of government. In the United States the great Washington and the great Hamilton were strongly in favour of a united and a strong form of government. The parochialists, however, carried the day. In Canada, in the same way, Sir John Macdonald—perhaps the keenest intellect in Canada—was also strongly in favour of Parliamentary Government. The facts were against him, because they had there an alien Church and an alien people, unlike the people in this colony, that practically formed one homogeneous population. In this country they had no alien Church and no alien race, for the two races in this country sprang from a common stock, and there was nothing to prevent them from intermingling in every possible way. They had only to turn to their sister colony of Australia, where they began upon the very principle which was advocated here. In Australia they had succeeded in making a bundle of jangling and wrangling States, whose only salvation was to unite, or they would probably break up. If they wanted a warning, let them take it from Australia and not



follow in their footsteps. In the resolution before them they had avoided—as they had been pressed to do—giving an equal representation to the different sovereign States, and giving them an equal voice as to whether they should unite or not. They had agreed . . . they would not have an equal representation by States, because that, of course, would have brought them down to the States' rights business. Then the question came up as to the proportion to be given to the different States in electing delegates. His own idea was that they should take, roughly, some unit of population, and say, return one member for the unit of population ; that they should not make their Convention too big, so as to be unwieldy, and to risk the splitting up into cliques and parties. It struck him that, taking the unit of population one member for about 50,000 would give them a Convention of about thirty, large enough for discussion, but not large enough to split up into little cliques and bodies of intrigue. He suggested that to some of his friends, and there was an objection made to it, and they proposed an arbitrary thing, that was to take the number of members of Parliament. That seemed to be rather unfair, because the members of Parliament in this colony were elected on a restricted franchise, and the members in some of the other States were elected on manhood suffrage. Well, they talked this matter over, and they came to a compromise, and that compromise was embodied in these resolutions. That was, the Cape Colony gave up a great deal. One European in Natal under this form of representation was equal to two and a half people in the Cape Colony. And in the same proportion every State gave up something, and Natal got the best of it until, to use a vulgar expression, Natal came out top dog in this matter. Therefore he was a bit surprised to notice that in some quarters it was considered Natal had been badly treated. Well, another most im-

portant principle was adopted in this, and that was in Resolution No. 8, that the voting should be per capita and not by States. That meant that every individual who went to the Convention would have a perfect right to state his own opinion, and to ratify his opinion by his vote. Hitherto the Colony had always been represented at these Conferences by one vote, and the result had been unpleasant, for men had been obliged to give their votes in entire conflict with their own opinions. Now that was really what constituted this a kind of small Parliament for South Africa. They would get in a rough but, he hoped, a practical way, at the opinion of the people of South Africa, instead of getting at the opinion of one State, which was governed by a number of side issues, which, perhaps, did not directly affect the object at issue. There would be, of course, large questions to be decided in forming any Constitution or attempting to form any Constitution for South Africa. He would just give some of them now, not for the purpose of arguing them . . . but for the purpose of letting members who were interested in this subject think them over. Were they to have one House or two? Were they to have one House with a referendum, or two Houses, in their future Legislature? A great deal might be said for either principle. How were they to settle the vexed question upon which both sides of that House were pledged up to the hilt—that was, the maintenance of the rights of the natives in respect of the franchise in this colony, rights which had been given to them by the Constitution? How were they to provide for the effective local government of the different parts into which this country would be divided? Because they must have effective local government and local administration; that was absolutely clear. Without it, no form of Union would last for a day. When they talked of Unification, they never supposed they were going to

have a highly centralised government like that of Russia, with which they could do nothing without an order from headquarters. They must devolve upon local bodies a large amount of local administration. How that was to be done without at the same time creating the undesirable state of affairs they now saw in Australia, and, indeed, in America, would, of course, be a question of grave importance. How were they going to arrange the finances for the future? What was to be done with the debts? Because he could not, for one moment, contemplate that each country was to sit down with its own debt, and provide for it with its own taxation. Some form of amalgamation of debts would undoubtedly have to take place. Then, again, there was the question of the railways of this country, in regard to which strong representations had been made by an expert, who travelled through the country, as to the uneconomical fashion in which the railways were being worked. From everybody's point of view, there were large questions connected with that, and with the safeguarding of the rights of the country, which would be no easy matters to settle. . . . But let him say above and beyond these things, there was one great aim which should animate the spirit of everyone who attended that Convention, and that was as far as possible to yield upon details. Let them stand upon principles, but let them give away and compromise as far as they could, without abandoning their own views, upon details. Now, he would say just one word, before he sat down, upon the question of the mode of election which, he knew, had been canvassed in certain quarters. Some people had suggested they should have election by the people of the Colony at large of the delegates to this Convention. Well, he saw a cold shiver run through the whole of the House when the word "election" was mentioned. After their recent prolonged and, to some of them, bitter experience of

elections, he could hardly believe that for the purpose of selecting delegates for an important meeting like this, any person in his sane and sober senses would recommend [that] they should go round to the constituencies of the country, stumping them upon a subject which would certainly then be mixed up by a large number of side issues. Well, of course, there was an alternative, and that would be election by that House. He questioned himself whether that would be altogether satisfactory, though it would certainly relieve him of a great deal of responsibility. He would only say, that in making the selection he had made, he had tried as far as he could to be scrupulously fair. He thought anyone who examined the list would say that if this were reduced to a mere party squabble, the members of the Government side would have most cause to complain, because of the 11 members he had chosen five sat upon the opposite side of the House, and only six belonged to the Government side. He had tried also to get every interest represented. He had taken the strongest advocate of Federation. He hoped they would come to some agreement upon these points. He did not know that this was the time when he ought to say anything about what he considered to be the future steps which should be taken. Supposing they were able to agree at the Convention upon some form of Constitution to be submitted to the Parliaments of the country. He did not think this was the time to go into that. Those things, he thought, had better be left to the Convention itself to recommend to the Parliaments of the country, because all this was merely the machinery for getting a Constitution drawn up. The Constitution would have to be brought back and submitted to the arbitrament of the Parliaments in each separate State for any amendments or suggestions they might have to make. Nor did he think it was necessary

now to look forward into the future, because he was afraid they would have a great deal of struggle before they got to that future as to exactly how the Constitution was to be enacted. In Australia and Canada the Constitution was enacted by Act of Imperial Parliament, but here we held our Constitutions, not from the Parliament of Great Britain but as a gift from the King. They were superior to a Parliamentary Constitution in this respect—that the King might not take back what he had once given, and the question came, when we were going to change that Constitution for a larger and wider Constitution, how that Constitution should be drafted. . . . All that he had to do now was to submit these resolutions to the House, to ask the House to confirm what had been done at Pretoria; and he did hope they would have no domestic squabbles, that they would go up as one country to meet those, their friendly rivals, to try to form out of the people of South Africa, instead of this bundle of jarring and disunited States, one big strong people, which would carry forward the great task of the civilisation of South Africa.

LXXIV. EXTRACTS FROM DEBATES IN THE LEGISLATIVE ASSEMBLY OF NATAL ON THE PROPOSAL FOR A NATIONAL CONVENTION, June-July, 1908.

[Natal. Debates in the Legislative Assembly, 1908, pp. 186-229.]

*Tuesday, 30 June, 1908.*

[The PRIME MINISTER [Right Hon. F. R. Moor] in moving the resolutions adopted at the Inter-Colonial Conference at Pretoria, 5 May, 1908, said :—]

At an early stage at the Conference in Pretoria the subject of these resolutions was tabled, and became a matter of discussion at that Conference. . . . Natal endeavoured . . . to get a representation at the Convention on the basis of States, and on terms of equality.



After considerable discussion, lasting over days, the matter was decided by three States voting against Natal, and Natal agreeing to submit to a majority, and to bring these resolutions before this Assembly, and also before the Colony, in order to prevent a rupture as regards this movement, and perhaps also as regards the renewal of the Customs Union. . . . There is no doubt about it that this union is most earnestly desired by all sections of the white community of South Africa. If there is any remarkable feature about this movement, it is this, in my opinion, that the people themselves have been probably ahead, not only of the politicians of South Africa, but more certainly of the Press of South Africa. They, the people, have been taking a lead in this matter throughout the length and the breadth of the whole of this sub-continent, and I may say that I cannot bring to my memory now meeting anyone of importance or a leader of character or thought who has not expressed his earnest desire for this movement to come to a successful issue. This was reflected at the Conference table, and it has been reflected at all the different gatherings that I have attended during the discussion of these important resolutions, and I may safely say it is the earnest desire to-day of South Africa to bring about a common union. . . . We have also the fact that probably at the close of the War, the great Anglo-Boer War, it would have been an easier task to have brought about this Union than it will be to-day, because at that particular time South Africa was as clay in the potter's hands. . . . Well, time has gone on and years have passed and, during the process of these years, I regret to say most exceedingly, that jealousies, commercial and others, have been gradually growing up between the different States and Colonies of South Africa, which are deepening every day, and for that reason, I say that, unless we bring about this Union, the inevitable result is

going to be a drifting apart, separation, commercial jealousies, political jealousies, and perhaps, if we go on long enough, civil strife. . . . We must be ready . . . to bring about that Closer Union which is the only way of healing those differences which we find widening as the process of time goes on, and it is natural to realise why those differences are going on. It is in connection with the varied political policies that are now operating four Administrations in South Africa. Each Administration is more or less taking up a different policy to its neighbour, and these different policies reacting on the neighbours hinders and hampers not only the political relationship which exists between these different States, but also hampers the Coastal Colonies, I may say, as regards their financial position, and the only solution to my mind . . . is to bring about a common Federal Parliament where our common interests are going to be dealt with by a common Council, representative of all the different States, in the interest of all, and without those various policies that are now parting and dividing us to-day. We have large resources for raising revenue tied up in the Customs Union. That is, in order to raise Revenue by indirect taxation, we have to come to some common agreement with the other signatories to the Customs Union before we can increase taxation in that direction, and by these resources I would indicate our Customs, our Excise, our Railway rates more or less, and our harbours. These resources, which probably, to-day, for Natal, were they available to us, would be absolutely adequate to not only meet our present deficiencies, but to meet the deficits of the years past, are tied up in this Customs Union. The same condition obtains in the Cape Colony, and the Cape Colony is perhaps, if anything, in a worse position than we are, because of the larger sums that are involved as regards their public debt. Now follow that train of

thought, and what is the inevitable result, if this state of things is to continue? One of two things must inevitably happen; either we break from each other, in order that we may control these sources of Revenue to meet our necessities or we come into a common Union, by which all our larger institutions, our Railways and our Harbours, and with them the debts they have caused us in their construction, are thrown into the common Council for common adjustment. Therefore we have to face the position, and, whether we like it or no, we have to realise that now we have come to the parting of the ways. . . . Now . . . there are diversities of opinion as to the character this Union is to take, . . . but so far as I am concerned, I have made no secret of my views in this respect. I believe in the Federal system, and I believe the Federal system is the only workable one that will come out in the Convention when it assembles, and when we understand the principles that govern these Federal systems in those other countries which have united, then we see how simple everything seems and how naturally everything seems to fall into its place. For instance, take the German Empire, and Canada, not perhaps so much Australia, which has a defect, I take it, in their Constitution, from the results of indirect taxation not falling within the Federal Parliament, and here is the lead for us. We have already the results of indirect taxation in many directions being adjusted by these different Conferences. Therefore to that extent we have already accepted a principle which is one of the fundamental principles of the Constitution of the German Empire and the Canadian. Then with regard to the results of direct taxation, the taxes that the different Provinces or States, . . . the taxes that the people impose upon themselves for their own local requirements, are spent within the respective States and Provinces, and here

I hope we will have in the coming Union that elasticity with regard to our national life that will give to each State the needs, or rather will allow each State to raise these funds which are needed for local requirements, to be adjusted and to be voted according to the desires and wishes of those who are intimately concerned with those particular States or Provinces, and where they are levying taxes upon their own people for their own specific purposes. . . .

Mr. HYSLOP: The right hon. the Prime Minister has told us that at the Conference he fought against the representation which this Colony is to receive at the forthcoming Convention. I am very pleased to hear that, for I think that the allocation of the number of delegates to the different Colonies is a distinct departure from right principles. I cannot think there is any doubt that as long as the different Colonies are independent States, they are entitled to meet each other on terms of equality. . . . There is another point in the resolutions which I think is distinctly unfortunate, and that is that as soon as two of the Colonies decide to meet in Conference, they may do so, even if the other Colonies decide to abstain from the Conference. . . . As far as I am concerned, what is understood in this Colony as Federation is the only form of Government which this Colony should accept. I think our delegates ought to go to that Conference with their minds made up to meet the other Colonies as far as possible; but in this question I don't think there should be any compromise. I don't think this Colony is prepared to see itself wiped out altogether, and to become a mere outlying part of a large State. I don't think we are prepared to efface ourselves altogether, and to be governed, even in our local affairs, from some point far distant in South Africa by people who may have very little interest in us. . . . Then I take it that when this Con-

ference comes about, one of the first things that will have to be decided is what matters are to be left to the Federal Parliament, and what to the State Parliaments, taking it for granted that a Federal Parliament is to be established. Whether we adopt the Australian method of allocating to the Federal Parliament certain definite subjects, and leaving everything else to the State Parliaments, or the opposite, as is done in Canada, may be a matter upon which a compromise is effected at the Conference. Possibly something between the two systems may suit South Africa. Another point is as to the number of members each of the Colonies is to have in the Federal Parliament. Our delegates, I take it, should press for equal representation in the Upper House, in order that the smaller States may have due protection. Of course, in the Lower House, it is impossible for us to look for anything like equality with the larger Colonies; but I do think this Colony has a right to look for something different to the number of representatives that the voters of our Colony would entitle us to. I don't think we should have or accept one vote one value. It seems to me that there are other things to be taken into consideration besides the European population of the different Colonies. We have a very large native population here, whose interests have to be looked after. I think we are entitled to claim a certain representation on account of these Natives. Possibly, if we can get representation in the Federal Parliament on a population basis, including blacks and whites, it will suit us very well. Another very important matter that will have to be discussed at this Conference is the question of finance. I have heard it said that if we get Federation, the Federal Government will take over all the debts of the local Governments. I think this will hardly come about; but I do think, of course, that the Federal Government will take over



debts representing the assets they take over. If they take our railways and harbours, and such public buildings as they require, they will no doubt take over the debts corresponding to these; but I don't think any of the States could expect that the Federal Government will take over the deficits of the different Colonies. . . .

Mr. WATT: I think there can be no question at all that this Colony generally is opposed to Unification, if by Unification we mean the obliteration of all our Colonial Legislatures, Colonial institutions and Colonial boundaries. It seems to me that Unification will be a dangerous experiment. It has, I admit, been an experiment which has worked well so far as regards England and Scotland; but even quite recently the Prime Minister of England stated, when introducing his motion with regard to Home Rule in Ireland, that it was his intention to consider the advisability of establishing a separate Parliament for Scotch affairs in Scotland. Now if that is the case in a comparatively small, although a populous, country like England, how much more is it necessary for us in this country, which in process of time will, we hope, be filled up by a large population, to retain in our own hands our own local affairs? I am hoping that it will be arranged that such matters as these will be retained by the Colonial Governments; the administration of justice in the inferior Courts, the Police, prisons and education. Education is a matter which, I think, can be far better dealt with by each Colony separately than by a Central Government; and . . . I hope it will be possible . . . to instruct the youth of both sexes in the Colony in both the Dutch and English languages. . . . We ought also to have all matters with regard to Municipal Laws, Liquor Laws, and with regard to trade and professional licenses, in our own hands; and only such matters as

ought to be uniform throughout the various Colonies should be handed over to the National Government.

Mr. BRUNNER: With regard to the question of Federation or Unification, . . . Federation is the only thing to be considered. There seems to be several reasons for that which I have not heard mentioned. One, for instance, is this, that if you were to have a Unified South Africa, or at any rate a Unification of these States of South Africa which have been named, you would have on the other hand two or three countries or States which are under direct control of the Imperial Government alongside, and I am sure there would be serious difficulties in connection with the policy to be adopted by the Union Parliament as against the policy that is being and will be carried out by the Imperial Government in South Africa, and to my mind Unification can only be brought about when the whole of South Africa can become one Dominion, and when these other States, such as Swaziland, Basutoland, Bechuanaland, and Rhodesia, can also join in the Union.

*Wednesday, 1 July, 1908.*

Mr. YONGE: I must differ . . . in respect of the question and bearing upon Closer Union of this hideous nightmare—and it is an ever-recurring one—called the *Modus Vivendi*. So long as that is before us, so long can Natal say—We have nothing to do with you; we cannot do it; our hearts may be willing for it, our appreciation may direct us there; but so long as that *Modus Vivendi* is there, we cannot enter into this proposed Union. . . . When our delegates go to Durban, we will want to get Unification out of the road, and I am going to suggest one point as the easiest way to get rid of it. The first point is this: decide on the site or locality of the new Government. Make it

Bloemfontein, for instance. You will hear no more of Unification from Capetown, and you will hear no more from the Transvaal, when you come down to sensible politics.

LXXV. EXTRACTS FROM MINUTES OF PROCEEDINGS OF  
THE SOUTH AFRICAN NATIONAL CONVENTION HELD  
AT DURBAN, CAPE TOWN AND BLOEMFONTEIN, 12  
October, 1908—11 May, 1909.

[Minutes of the National Convention, Cape Town, 1911.]

DURBAN, *Tuesday*, 13 October, 1908.

8.<sup>1</sup> *Mr. Merriman* moved :

“(a) That it is desirable for the welfare and future progress of South Africa that the several British Colonies be united under one Government in a legislative union under the British Crown.

“(b) That provision shall be made for the constitution of Provinces, with powers of local legislation and administration ; the present self-governing Colonies being taken as Provinces.

“(c) That provision be made for the admission into the Union, as Provinces or Territories, of all such parts of South Africa as are not included from its establishment.

“(d) That the Union shall be styled ‘South Africa’.”

DURBAN, *Thursday*, 15 October, 1908.

6. Debate on Mr. Merriman's motion on the Union of British South Africa continued. . . .

*Mr. Merriman* moved : “ That the following be a new sub-section (b) :—That provision shall be made in the Constitution for the establishment of Provinces with powers of legislation and administration in local matters

<sup>1</sup> The numbers before the paragraphs refer to the particular items on the Minutes and are copied therefrom.

and in such others as may be specially reserved to be dealt with by each Province separately, the present self-governing Colonies being taken to be the Provinces of the Union."

*The President* [Sir Henry de Villiers] then put the amendment proposed by Mr. Morcom [Natal], which was negatived, viz.: "That the motion read as follows:—

'That it is desirable for the welfare and future progress of South Africa that the several British Colonies be united under one government under the British Crown.

'That provision shall be made whereby the present self-governing Colonies shall as such become States of the Union so created.

'That provision be made for the admission into the Union as States of the Territories of all such parts of South Africa as are not included from its establishment.

'That the Union shall be styled the "Dominion of South Africa".'

With the leave of the Convention,

*Mr. Merriman* withdrew sub-section (d). . . .

The motion proposed by Mr. Merriman, as amended, was then put and agreed to.

DURBAN, *Monday*, 19 October, 1908.

8. *Mr. Merriman* moved: "It shall be competent for the Parliament of South Africa to make laws for the peace, order and good government of South Africa, and to provide by means of taxation or otherwise for the same, and to alter, repeal, or amend all laws at the date of this Union existing or in force in any Colony forming part of such Union, save and except any laws dealing with the franchise or qualifications of electors, existing at the date of such Union in any Colony forming part thereof, which laws shall not be altered except in the

manner prescribed for altering the constitution of the Union." . . .

*Mr. Lindsay* [Transvaal] moved, as a further amendment: "That the motion read as follows: 'The Parliament of South Africa shall have full power to make laws for the peace, order and good government of South Africa'". . . .

The amendment proposed by *Mr. Lindsay* was put and agreed to, and the original motion was accordingly dropped.

DURBAN, *Tuesday*, 20 October, 1908.

7. Adjourned debate on motion by General Hertzog [Orange River Colony] an equal right of English and Dutch languages [19 October, 1908] resumed.

*The President* stated that when this debate was adjourned yesterday the question before the Convention was:

"In order to effect a Closer Union of the Colonies represented at this Convention, and in order fully to attain the object of its establishment, it is essential that both English and Dutch be recognised as the official languages of the Union; to be treated on a footing of equality and to possess and enjoy equal freedom, rights and privileges in all the various offices, functions and services of whatsoever kind or nature of or administered by or under the Union; and that all the records, journals and proceedings of the Union Legislatures, as likewise all Bills and Laws of the Union, and all official notifications of general public importance or interest published in the 'Gazette,' or otherwise, shall be issued and published in both the English and the Dutch language." . . .

*Sir George Farrar* [Transvaal] moved, as an amendment: "Both the English and the Dutch languages shall be official languages of the Union, and shall be



treated on a footing of equality, and possess and enjoy equal freedom, rights and privileges; all records, journals and proceedings of the Union Parliament shall be kept in both languages, and all Bills, Acts and notices of general public importance or interest issued by the Union Government shall be in both languages."

After discussion,

The amendment proposed by Sir George Farrar was put as the main question, and agreed to, and the original motion was accordingly dropped.

DURBAN, *Tuesday*, 20 October, 1908.

9. *Col. Stanford* [Cape] moved: "All subjects of His Majesty resident in South Africa shall be entitled to franchise rights irrespective of race or colour upon such qualifications as may be determined by this Convention."

*Mr. Merriman* moved, as an amendment: "All laws dealing with the franchise and qualifications of electors at the date of the Union in any Colony shall remain in force until repealed or altered by the Parliament of South Africa, provided that no such repeal or alteration shall take place except such repeal or alteration shall be carried by a majority of not less than three-fourths of the members of both Houses sitting and voting together." [Withdrawn, 21 October, 1908.]

13. Discussion on *Col. Stanford's* motion on franchise rights continued.

*Mr. Jagger* [Cape] moved, as an amendment to *Mr. Merriman's* amendment: "To omit all the words after 'except,' and substitute 'with the consent of a majority in both Houses of Parliament of the representatives of such Colony'." [Withdrawn, 21 October, 1908.]

DURBAN, *Wednesday*, 21 October, 1908.

3. *Col. Greene* [Natal] moved, as an amendment: "To add 'Only persons of European descent shall be eligible

for election as members of either House of Parliament'."

DURBAN, *Thursday*, 22 October, 1908.

6. Discussion on Col. Stanford's motion on franchise rights continued.

*Sir Percy Fitzpatrick* [Transvaal] moved: "That the debate on this motion be adjourned, and the matter referred to a Committee consisting of two delegates from each Colony, to be appointed by their respective Prime Ministers, and one from Rhodesia, to be appointed by Sir William Milton. That the reference to the Committee be to consider whether the native and coloured population of South Africa should be directly represented in the Legislatures of the Union; if so, in what manner and on what conditions the right of representation should be conferred and exercised; if not, what constitutional provision should be made for enabling the Union Government to ascertain the wishes and consult the interest of the native and coloured population."

*Gen. Botha* [Transvaal] moved: "That the original motion, and all the amendments thereon, together with the proposals by Mr. Merriman, Mr. Jagger, and Gen. Smuts [Transvaal], viz.:

'The various electoral laws of the Colonies shall, until altered by the Parliament, continue to apply, *mutatis mutandis*, to electors for the House of Assembly in the corresponding provinces, subject to the application of the principle of proportional representation. The qualification of voters in the provinces shall, similarly, be identical with those existing in the Colonies at the establishment of the Union, save in regard to the following matters:

'(a) naturalisation in any one Colony shall entitle the person naturalised to be registered as a voter in that of any other province.'

‘(b) residence in South Africa for three years previous to registration shall be necessary.’

‘And the amendment proposed thereto by Dr. Beck [Cape] viz.: “in line 5, after ‘representation,’ to insert ‘provided that in so far as these laws apply to native electors in the Cape Colony, there shall be no such alteration, except in the manner prescribed for altering the Constitution of the Union,’ ”’

be referred to a Committee with an instruction to prepare the draft of a resolution in reference thereto for submission to the Convention, and that the Committee consist of two delegates nominated by each Prime Minister and one nominated by Sir William Milton.”

8. The motion proposed by Gen. Botha was put and agreed to, and the motion proposed by Sir Percy Fitzpatrick accordingly dropped.

DURBAN, *Friday*, 23 October, 1908.

2. *Gen. Smuts* [Transvaal] moved: “For ten years after the establishment of the Union, and thereafter until Parliament otherwise provides, the Senate shall consist of 36 members, and 9 shall be elected or nominated in respect of each Province in the manner following.”

*Mr. Jagger* moved, as an amendment: “The Senate shall, until the Parliament otherwise decides, consist of 35 Members directly chosen by the voters, and for the purpose of the election of Senators the Union shall be divided into seven electoral areas, namely:—

“Cape Colony into three areas,

“Transvaal into two areas,

“Orange River Colony into one area,

“Natal into one area.

“And each area shall return five members; to be elected by proportional representation.”

[*Mr. Merriman's* amendment: “36 members to be chosen or nominated as follows” (Withdrawn).]

*Mr. Hyslop* [Natal] moved, as a further amendment: "The Senate shall consist of thirty-six Members and nine shall be chosen by the Legislatures of each Province.

"The Parliament may make laws increasing or diminishing the number of Senators for each Province, but so that equal representation of the several original Provinces shall be maintained, and no original Province shall have less than nine Senators."

7. Discussion on Gen. Smuts' motion on constitution of Senate continued.

*Mr. Fischer* [Orange Free State] moved, as a further amendment: "For ten years after the establishment of a Union, and thereafter until Parliament otherwise provides, the Senate shall be composed of nine members for and elected in each of the Provinces constituting the Union, and an additional number, not exceeding nine, to be nominated by the Governor-General-in-Council."

*The President* moved, as a further amendment: "For ten years after the establishment of the Union and thereafter until Parliament otherwise provides the Senate shall consist of thirty-two Senators, to be elected in the manner hereinafter mentioned, and such additional members not exceeding ten in number as shall be nominated by the Governor-General-in-Council: provided that in the selection of persons to be nominated as Senators the Governor-General-in-Council shall as to one-half of their number be guided mainly by their thorough acquaintance, by reason of their [past or present]<sup>1</sup> official position,<sup>2</sup> or otherwise, with the reasonable wishes and wants of the coloured races in South Africa. As to the remaining half of the nominated Senators, the Governor-General-in-Council shall have regard to their official or judicial experience by

<sup>1</sup> Omitted in amendment as finally passed.

<sup>2</sup> The word "experience" substituted in final wording of amendment.

selecting only persons who have occupied in South Africa the position of a Judge of a Superior Court, Executive Councillor, Speaker of any House of Assembly, President of any Legislative Council, or Chairman of any Volksraad."

[An amendment by Mr. Sauer [Cape Colony] to omit the last paragraph of the President's amendment was carried on 26 October, 1908.]

[The President's amendment being agreed to, as amended, the original motion and the remaining amendments were withdrawn].

DURBAN, *Tuesday*, 27 October, 1908.

11. *Gen. Smuts* moved: "The members of the House of Assembly shall be distributed among the Provinces in proportion to the respective numbers of their registered white voters, and shall be quadrennially redistributed on the same basis. All fractional quotients shall be disregarded and shall be given to the Province with the smallest number of white voters."

*Mr. Merriman* moved: "To omit all the words after 'number of their' and substitute 'European population, and after each census shall be redistributed on the same basis. All fractional quotients in excess of one-half shall be taken as a unit of redistribution'."

[A Committee was then appointed to consider the matter, the substance of whose report of 28 October, 1908, was incorporated in the Union Act §§ 33 and 34. A further report was made on 3 November, 1908, cf. Union Act §§ 38, 40 and the other clauses of the Act dealing with the appointment and functions of the Electoral Commission.]

DURBAN, *Monday*, 2 November, 1908.

15. *Mr. Fischer* brought up the First Report of the Franchise Committee appointed by resolution of the



Convention, dated 22 October, 1908, recommending the following resolutions, viz. :—

“I. The various Franchise Laws of the original Colonies constituting the Union shall, until altered by the Parliament, continue to apply *mutatis mutandis* to electors for the House of Assembly in the corresponding Provinces :

“provided that no Act of Parliament shall at any time :—

“(a) withhold the franchise from any persons by reason of their colour or race in any Province wherein franchise laws at the time the Union Constitution takes effect admit of their inclusion ;

“(b) deprive any registered voters in any Province if and as long as duly qualified to be on the voters’ lists by any law in force at the date of the establishment of the Union, of the right to remain on such lists ;

“(c) Deprive any persons so qualified at any time but not registered as voters at the time of the establishment of the Union of the right to be so registered.

“Nothing herein stated shall prevent the Parliament of the Union by a general law from altering the qualifications of voters throughout the Union.

“II. Only persons of European descent shall be eligible as Members of either House of Parliament.

“III. Until Parliament otherwise provides, but subject to the Constitution, the laws in force at the establishment of the Union in each Colony entering the Union as an original Province relating to the election for the Legislative Assembly for such Colony [including the registration of voters, the oaths or declarations to be taken by voters, and other proceedings incident to the holding of elections] shall *mutatis mutandis* apply to the elections in the Province of Members of the House of Assembly.

“IV. Naturalisation of persons of European descent

in any one Colony shall avail as naturalisation throughout the Union."

[Resolutions I. and II. referred back; Resolutions III. and IV. carried.]

DURBAN, *Wednesday*, 4 November, 1908.

6. *Mr. Fischer*, in terms of the resolution of the Convention . . . brought up the Second Report of the Franchise Committee making no alteration in Resolution No. II. of the Committee's First Report, but recommending the following in lieu of Resolution No. I., viz. :—

"(1) The Parliament may, by law, prescribe the qualifications which shall be necessary to entitle persons to vote for the election of Members of the House of Assembly, but no such law shall disqualify any persons in the Province of the Cape of Good Hope by reason of their race or colour only, unless such law be passed by a majority of two-thirds of the Members of each House of Parliament.

"(2) Until such a law shall be passed, the qualifications as existing in the several Colonies at the establishment of the Union shall be the qualifications necessary to entitle persons in the respective Provinces to vote for the election of Members of the House of Assembly.

"(3) No person who, prior to the passing of any such law, shall be registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour."

*Gen. Botha* [Transvaal] moved: "To omit all the words after 'passed by' and substitute 'both Houses of Parliament sitting together and approved of by two-thirds of the total number of Members of both Houses.'"

[Amendment put and agreed to.]

[The Resolutions (1), (2), and (3) and Resolution II. of the First Report were then agreed to.]

CAPE TOWN, *Monday*, 7 December, 1908.

9. *Col. Stanford* moved: "Until Parliament shall otherwise decide, the general control and administration of native affairs throughout South Africa shall vest in the Governor-General-in-Council, who shall also exercise all special powers in regard to native administration hitherto vested in Governors of States and corresponding with or substituted for the prerogatives of Paramount Chief over and in respect of any independent native tribe. Included among the special powers referred to in this section shall be deemed and taken to be:

"[The powers as Supreme Chief, of the Governor of Natal;

"The powers as Paramount Chief, of the Governor of the Transvaal in succession to the State President;

"The powers of the Governor of the Cape Colony of proclaiming laws in Transkeia;

"The control of the Governor of the Cape Colony over the Councils of the Glen Grey and Transkeian Districts, etc.

"All other similar powers of native administration.]

"Provided that the Governor-General-in-Council may delegate to any Provincial Council or to the Administrator such powers as he may deem advisable for the local administration of native affairs within such Province: and provided further that the powers now exercised by Divisional and Municipal Councils, and by Village Management Boards over the natives within their areas shall continue undisturbed."

CAPE TOWN, *Wednesday*, 9 December, 1908.

3. *Gen. Botha* moved: "That it is desirable for the Convention to settle the Capital of the Union."

[After discussion this was agreed to.]

6. *Mr. Fischer* moved: "That a Committee consisting

of the President and one member from each Colony, to be nominated by the respective Prime Ministers, be appointed to report as to the procedure to be followed by the Convention in deciding as to the Capital of the Union; and that the report of the Committee be considered after the resolutions on which the Constitution is to be based shall have been settled."

*Sir Percy Fitzpatrick* [Transvaal] moved, as an amendment: "To omit all the words after 'the Union.'"

[Amendment lost.]

CAPE TOWN, *Thursday*, 10 December, 1908.

8. Adjourned debate on motion of Mr. Fischer for committee on procedure on selection of Union Capital resumed. . . .

After discussion,

With leave of the Convention, the words after "the Union" were withdrawn.

The motion, as amended, was then put and agreed to.

CAPE TOWN, *Thursday*, 17 December, 1908.

2. *The President*, as Chairman, brought up the report of the Committee appointed by resolution of the Convention dated 10 December, 1908, on Native Affairs, as follows:—

[For content of first part of the report see the Schedule appended to the Union Act.]

"*Secondly*, in regard to Colonel Stanford's proposals, the Committee would recommend the adoption of the following:—

"The control and administration of Native Affairs throughout South Africa shall vest in the Governor-General-in-Council, who shall also exercise all special powers in regard to native administration hitherto vested in Governors of States, and corresponding with or

substituted for the prerogatives of Paramount Chief over and in respect of any independent native tribe.

“*Thirdly*, in regard to the provision relating to the taking over of other territories than the Protectorates, your Committee would recommend the adoption of the following resolution :

“‘It shall be lawful for the King, by and with the advice of the Privy Council, on addresses from the Houses of Parliament of the Union, to admit into the Union Colonies or other territories not originally included in such Union, on such terms and conditions in each case as are in the addresses expressed and approved by the King; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.’”

4. *The President*, as Chairman, brought up an Interim Report of the Committee appointed by resolutions of the Convention dated 10 and 14 December, 1908, to report as to the procedure to be followed by the Convention in deciding as to the capital of the Union, as follows :—

[The Report begins with an account of the difficulties of the Committee. No vote has been taken, as one of the members has left for the recess.]

“The Committee, therefore, recommend that they should be authorised during the recess to continue their labours and to report immediately after the adjournment. In the meanwhile they would suggest that the Prime Ministers should during the interval seek to come to some arrangement between themselves as to the site of the Capital, or failing such arrangement as to the mode in which the decision thereon should be arrived at.”

*The President* proposed to move, as an unopposed motion : “That the Capital of the Union shall be at such place as an impartial Commission of three men not being residents in South Africa appointed by His Majesty



the King shall, after full examination of the claims of the different Colonies, and of the merits of the different Colonies, fix and determine."

*Gen. de la Rey* [Transvaal] objected.

[Further consideration of the report to stand over until after the adjournment.]

CAPE TOWN, *Monday*, 18 January, 1909.

[4. The President, as Chairman, brought up the report of the Committee on the Union Capital, containing two schemes put forward by Gen. Hertzog and Gen. Botha respectively, which had received two votes each in the Committee. Both of these were subsequently withdrawn by their movers.]

CAPE TOWN, *Friday*, 22 January 1909.

5. Report of Committee on the Union Capital to be considered. . . .

*Mr. Steyn* [Orange River Colony] moved: "That the decision as to the future capital of South Africa be left to the Union Parliament."

*Gen. Botha* asked the President whether the subject of a resolution can be rescinded if any member objects?

[The President, thereupon, ruled *Mr. Steyn's* motion out of order and it was withdrawn.]

CAPE TOWN, *Saturday*, 30 January, 1909.

6. Consideration of report of Committee on the Union Capital resumed. . . .

*Mr. Merriman* moved: "The seat of the Executive Government of the Union shall be at Pretoria and the seat of the Legislature shall be at Cape Town."

*Gen. Botha* moved, as an amendment: "Pretoria shall be [the capital and]<sup>1</sup> the seat of Government of the Union; the sessions of Parliament shall, however, be held at Cape Town."

<sup>1</sup> *Gen. Botha* withdrew this phrase at the sitting on 1 February, 1909.

[Other amendments were moved: (a) by Mr. Jagger—"The voters of the Union to choose one of the four Provincial capitals;" (b) by Mr. Hull [Natal]—"That Parliament choose some place on the Vaal River;" (c) by Mr. Hyslop—"That Pietermaritzburg be the Capital."

On 2 February, 1909, the original motion and all the amendments were withdrawn, and the solution embodied in §§ 18 and 23 of the Union Act substituted.]

LXXVI. INFORMAL SUGGESTIONS BY THE HIGH COMMISSIONER ON THE QUESTION OF THE NATIVE FRANCHISE CIRCULATED TO MEMBERS OF THE SOUTH AFRICAN NATIONAL CONVENTION [December, 1908].

[Sir Edgar Walton, "The Inner History of the National Convention of South Africa," pp. 147-148.]

Have a civilisation qualification in all the provinces, roughly as follows:—

- (1) Monogamy;
- (2) Speaking a European language;
- (3) Either owning property of a certain value or as an alternative having worked for a certain number of years, all the year round; and
- (4) Habitually wearing clothes and living in a house as distinct from a hut.

No European or non-European to have a vote without this qualification.

Every non-European who has reached the age of 31 or who proves the possession of the civilisation qualification before an impartial tribunal to be given a vote equal in value to  $\frac{1}{10}$ th the vote of a European. The son of every non-European who has been given a vote, provided he himself has reached the age of 30 and possesses the civilisation qualification to receive a vote equal in value to  $\frac{1}{5}$ th the vote of a European. [The grandson, provided he is 29 and has civilisation qualification, to have vote equal in value to  $\frac{1}{8}$ th the vote of a European.] And so

on until in the 10th generation the non-European is entitled at the age of 21 to a vote of full value.

A non-European voter judged by an impartial tribunal to have reverted to native habits, to lose his vote and his son to start fresh in the progress towards a full vote.

The son of a European father and non-European mother possessing the civilisation qualification to receive at the age of 26 a vote equal in value to  $\frac{1}{5}$ th the vote of a European, his son to receive at the age of 25 a vote equal in value to  $\frac{1}{4}$ th the vote of a European, and so on.

LXXVII. EXTRACTS FROM SPEECH OF MR. J. X. MERIMAN, PREMIER OF CAPE COLONY, IN THE HOUSE OF ASSEMBLY, IN INTRODUCING THE DRAFT SOUTH AFRICA ACT, 31 March, 1909.

[Cape of Good Hope, Debates in the House of Assembly, 30th March to 17th April, 1909, pp. 5-7.]

Let me briefly recall to people's minds the events which must be within the recollection of most of us—I shall not enter upon a historical disquisition, for that would take me the whole of the afternoon. It was in 1907, I think—I take up the tale from there—that my hon. friend (Mr. Malan) in a speech of great eloquence and force, moved a motion in favour of this question of Closer Union being brought to a head, which was seconded by the right hon. member for Grahams-town (Dr. Jameson), who then occupied the place I am now in. The discussion—I am not referring to the speeches of the mover and seconder, of course—was hardly worthy of the importance of the occasion, and at the time I did not feel very enthusiastic myself, confidence, as a great man once said, being a thing of slow growth in an aged breast. Perhaps this may account for it, or perhaps I had in my mind that very often small communities are the best—I certainly had in my mind that this Parliament is one of which we may feel

justly proud—and which we must be slow to abandon—and I had an intense distrust of anything approaching Federation. An election followed shortly afterwards, and this question was brought forcibly before the electorate; upon every platform members advocated Closer Union as being a practical thing. There were certain discussions as to which form it was to take; but there were no real differences of opinion on the great thing itself; and it was the general wish that some steps should be taken to bring about Closer Union. That was the distinct mandate of the constituencies in 1908. In February, 1908, there was a change of Government, and we assumed office; and I confess that when I came into office my views on the necessity, the absolute necessity, for Closer Union underwent a very great change. I was confronted then with difficulties on all sides; so, I venture to think, would any five men that could be taken out of this House and put upon these benches. There was the Customs Union on the point of expiry. The railways were causing, I will not say, hostile feelings, but rival feelings amongst the different communities of South Africa. One of the communities said one thing and another might very well have said another thing. There was no united voice to speak for the whole of South Africa, but the interests were common to the whole of South Africa. The result was that in these matters the Imperial Government said, rightly enough: "Agree to something yourselves first, before we agree to anything." These things are extremely prejudicial to us, and you see the great danger there is in being separate communities in South Africa, and if you are not going to have Closer Union you are going on separate roads which will lead us further and further apart, which, in the interests of the European races of this country, will be disastrous, and a most unfortunate thing. This had rather converted me from the academic

views I once had. The meeting at Pretoria followed shortly afterwards. We went there to make another Customs tariff and other railway arrangements. It was found that unless we had some sort of common government it was almost impossible to settle these things in a manner satisfactory to the different communities. Seeing this, we undertook to pass a resolution to ask our Parliament to send delegates to a National Convention. I would invite the attention of members to something of which there is rather a tendency to lose sight, and that is the nature of this Convention. Previous Conferences, such as Customs Conferences, have been objected to because it was held that these had not been representative of the various States, and each Colony had the same number of representatives. But this was not the case with the National Convention, and we were each fully represented. This Convention that was authorised was really a small Parliament of South Africa. We there met, not as Cape Colonists, or as Natal or Transvaal men, we met there as South Africans. A man on that Convention could bring out his own views and back them up, and I think, considering the result we have arrived at, it is not a bad augury of the spirit of that Parliament of South Africa which we hope will be an established fact. When you consider that, coming from different places, we were able to meet as South Africans and carry through a scheme bristling with difficulties, I believe that we may take heart, and I believe that in the future that same spirit will find a solution for all the difficulties that beset this unfortunate country.

The Convention met, good feeling characterised the deliberations from the first, and during the whole of the proceedings there was nothing approaching a quarrel. The delegates were so possessed with the idea of arriving at some solution of the difficulty that they did not insist



upon driving matters to the breaking point. Another feature in the Convention was this—there were no reporters present—and the result was—you will hardly believe it—I don't think any speech lasted more than fifteen minutes. I merely mention this to show time was not taken up by long orations. We met there as business men to carry out business transactions. Upon the result of the Convention I think we may congratulate ourselves. Every delegate felt himself able to sign that document which is before us, without any reservation, or without any mental evasion. We all signed that document. And comparing it with other Conventions, I think we may congratulate ourselves upon that. In the great American Convention, only forty of the members signed the document; twelve of them absented themselves and three refused to sign at all, and went back with the vowed determination to wreck the Constitution. We differ largely from that result. And here I would like to pay a well-merited tribute to the action of the two smaller Colonies—the Orange Free State and Natal. No people made greater sacrifices than the Orange Free State. They had to give a very great deal, and they had got—from a material point of view—very little, but from the time they accepted the principle of Union, they fought and struggled that Union should go through. When I come to declare also that the Natal people had ideas totally divergent from those which the majority had, and that they fought for them with considerable warmth, when they accepted the Convention and put their names to that document, there have been no more loyal supporters of the Convention. I take this opportunity, therefore, of paying this tribute to them for the attitude they had taken up. It will be remembered that in the American Convention the man who was probably the greatest genius of the time, brought

forward a scheme which was entirely unlike that which was adopted, but when he put his name to the document, although it contained things he had struggled against, he said, when he put his signature to the document, he would support it, and it was owing to Hamilton's efforts that the States subsequently ratified the Convention. I give this as an instance to show that there is a precedent for the attitude which the Natal delegates have taken up. Now, when I say all this, I do not want to exalt the wisdom of the Convention, because I know very well that anybody sitting down could draw up a more suitable document—on paper. The members you have sent to that Convention however, have fought and struggled as far as they were able for their aims, and when they put their hands to the documents, I believe it was the best thing they could possibly get.

I would say also that although it is capable of amendments, still, at the same time, be careful. Do believe that we did our best and that the Constitution is one that we can recommend. I know that it is possible for many clever persons to sit down and pull the whole thing to pieces. They do not know, however, the difficulties that we had to face, and the difficulties the States had to face in arriving at the conclusion. If amendments are suggested, it would be the duty of those attending that Convention to deal with them, and to show how the various issues were arrived at. I have no doubt that my colleagues will be better able than I to point out the important objections and one thing or another. May I be allowed to quote the words of the real founder of the American Union—George Washington—during a time when feeling ran higher than we have in South Africa. These were words addressed to the State of Massachusetts:

“If another Federal Convention is attempted, its

members will be more discordant, and will agree on no general plan. The Constitution is the best that can be attained at this time. The Constitution or disunion is before us to choose from. If the Constitution is our choice, the Constitutional door is open for amendments, and they may be adopted in a peaceable manner, without tumult or disorder."

These words we ought to keep before us. I would like to take leave to urge—and I think it is my duty to urge—the grave danger of moving amendments that might tear the whole framework to pieces, and which would undoubtedly lead to reprisals elsewhere, and which might lead to the disruption of the whole scheme as far as it has gone. My fellow Prime Ministers have urged me to make their task as easy as possible. If amendments are made, I think they should come in the form of recommendations, which would be urged with all the strength of the delegates supporting them.

LXXVIII. EXTRACTS FROM DEBATE IN THE HOUSE OF COMMONS ON THE SECOND READING OF THE SOUTH AFRICA BILL, 16 August, 1909.

[Parliamentary Debates, 1909, vol. ix., cols. 951-1058.]

16 August, 1909.

SOUTH AFRICA BILL [*Lords.*]

Order for second reading read.

Motion made and Question proposed, "That the Bill be now read a second time."

THE UNDER-SECRETARY OF STATE FOR THE COLONIES (Colonel Seely): I am conscious that I am unworthy of the task that is imposed upon me, but following the precedent of a similar Bill, which was introduced into this House to unify or federate Canada, the task falls to me, and, therefore I must claim the indulgence of the House while I explain to them as

briefly as I can the provisions of this Bill. [The history and growth of the Union movement are well set out in Lord Selborne's Memorandum and in the speeches of the Secretary of State, the Earl of Crewe. The feeling in favour of union is not new and schemes were put forward by Sir George Grey and Lord Carnarvon, which failed because they were not entirely "home made".] At any rate, they did not succeed, and strife continued, and ultimately came the great South African war; but even then the great ideal of Union was not forgotten—union as only rendered possible by the union of the peoples who live in South Africa—union not of Governments, but of sentiment and aspiration. As soon as the war was over that ideal found expression. It found expression in South Africa by eloquent words from the lips of the Dutch, and it found expression from one whose absence from this Debate I am confident all of us, in whatever quarter of the House we sit, equally deplore—I mean the right hon. Gentleman the Member for West Birmingham (Mr. J. Chamberlain). I cannot forbear to quote—and I will only quote twice in the remarks I have to make—I cannot forbear to quote at length the striking words he used shortly after the declaration of peace. On 29th July, 1902, speaking in this House, he said:—

“ At least we may say that we start with a favouring gale: at least we may say, that those brave and able men, those gallant soldiers who laid down their arms and loyally accepted King Edward VII. as their Sovereign have been showing by everything that they have said since, how true they intend to be to their pledges and promises; and as they have retained, I am glad to say, their old influence with their followers, we may hope that they will also recognise that under their new flag they may find prosperity and a condition of things which will in the end be satisfactory to them. We

have no intention, we have no desire, that these Boers, our former foes, should break with all their old traditions. We desire that they should preserve all the best characteristics of their race. We hope they will shake hands with us, that they will bury the animosity that has existed, and that they will co-operate with us in securing the prosperity of South Africa under a flag which, whatever may be said of us, has, at all events, protected differences of race, differences of religion, differences of languages, and which will secure for all those who are under it, the peaceful enjoyment of their industry and the blessings of even-handed justice."

These were eloquent words spoken by one with whom we often have not agreed, but they are peculiarly apposite to the circumstances under which we find ourselves to-day. The very men to whom the right hon. Gentleman referred have been foremost, as he prophesied they would be, in promoting that union of sentiment, that feeling of common nationality which has enabled this Bill to be introduced. With their distinguished colleagues they are in this country now—the leader of their forces in war, General Botha and others who signed the treaty of peace, and others on the English side, some who fought against them—and they have come bringing this Bill. They say, in fact, "We are one people under one King, let us have one Parliament," and if, as we may hope and believe, this House accepts the Bill, for this is the last stage it must go through, this union will assuredly be completed, and following the gracious precedent set by himself, His Royal Highness, the Prince of Wales has decided to go to South Africa and inaugurate the new *régime* by opening the Parliament for the first time. Who are the delegates? I must say a word about them. I will not name them all because their names are familiar to all, and they will, of course, be remembered



here and in South Africa. But one I must name, Sir Henry de Villiers. It is not too much to say that without his unfailing tact, his wide knowledge of law and South African affairs, and his unselfish devotion to a great cause, the difficult path of union might never have been successfully traversed. . . .

The Bill proposes then to set up one Parliament for the whole of South Africa. It proposes to amalgamate South Africa in a Union, closer than the Union of Australia, closer even than the Union of Canada, and, no doubt, this is wise from the nature of the case. There are particular reasons in South Africa why the closest form of Union should be the most desirable. The very fact of there being a vast native population, numbering between 4,000,000 and 5,000,000 souls, who have to be governed to the greatest extent by the white races there, makes it essential that one single form of Government, with strength and with power and with sympathy, should pursue one common policy with regard to all native races. The Parliament is to be composed of the King, the Senate, and the House of Assembly. . . .

[For composition of the Senate, see South Africa Act, §§ 24-25.]

The Senate, as a Second Chamber, has the right to reject or amend all Bills except money Bills. Those it may not amend, but may reject, but arrangements are made following the precedent of the Transvaal and the Orange River Colony, which, I think, are also derived from a similar precedent in Australia, by which the two Houses sit and vote together. In the case of money Bills they do that at once. In the case of other Bills it is only after a measure has been passed a second time by the House of Assembly. But as the House of Assembly numbers 121 and the Senate only 40, it will appear that the power of the House of Assembly is

somewhat greater than in the case of some Assemblies nearer home.

The members of the House of Assembly are selected, broadly speaking, in accordance with the European male adult population to be found in each province, so that, broadly speaking, there shall be a corresponding number of representatives in the Union Assembly to the number of those European male adults in the different provinces, Cape Colony, the Transvaal, the Orange River Colony and Natal. But in the course of the negotiations during the conventions which took place at Durban, at Cape Town and at Bloemfontein, a concession was made to the smaller States, so that the Orange River Colony and Natal have rather more members than they would be entitled to, and Cape Colony and the Transvaal have somewhat fewer. . . .

[For members see South Africa Act, § 33.]

The qualifications of a member to sit in the Union Assembly have formed the subject of some criticism here. They are that he shall qualify to be a voter in the province in which he resides, that he shall be a British subject, that he shall have five years' residence, and that he shall be of European descent. The electoral divisions are to be based on the principle of one vote one value, so that approximately there shall be the same number of voters in each constituency. Here again a compromise has been arrived at by which they may be a margin of 15 per cent. one way or the other, in accordance with the physical features of the particular division, the density or sparsity of population, and so forth. Finally there is an arrangement for the automatic redistribution of seats, which seems to be a most excellent proposal, which we might well follow. I will not recount the functions of the Provincial Councils beyond saying that four are to be set up [in the four Provinces], but instead

of their having fixed powers and the Union having all the rest, all such powers as the Provincial Councils may have are specially delegated to them, and all the rest belong to the Union Parliament. The importance of that provision cannot be over-estimated, for those of us, and I think nearly all of us are of one mind, who see the great advantage of a centralised form of Government in the peculiar circumstances of South Africa, will realise that this provision makes it certain that all matters of the highest importance affecting all the States, must always come to the central Parliament to decide.

With regard to the franchise, it is the same for the House of Assembly and for Provincial Councils, but it has not been found possible to have a uniform franchise for South Africa. The compromise arrived at is that the franchise shall be the same as it has been up to now. In all the different Colonies, which now form the Union, to put it in a phrase, a man who had not got the vote before will not get one under this Bill, and no man who has a vote now will lose it under this Bill.

[In reply to a question, Col. Seely said that, of course, any body of men might be disfranchised by Parliament with the exception, however, in South Africa of the coloured voters. A two-thirds majority was necessary to disfranchise them.]

With regard to the powers and duties which are imposed on this Parliament, I would state that they take over the debts of the four Colonies. That in itself is a great advantage. They take over the management of the whole railway system. One point on which all men have insisted is that it is necessary to the welfare of South Africa—all men from the early pioneers of the railways down to Lord Milner, when he started his Inter-Colonial Council—to avert a war of railway rates. They have taken over the whole of the Civil Service, and I may say here that the existing rights of Civil servants

are fully safeguarded under one of the later clauses of the Bill. A judiciary is set up for the whole of South Africa including a Supreme Court. How great will be the advantage of having one common court of law, and how great will be the advantage of having a Supreme Court to which they can all appeal, I think will be admitted.

There is one other matter to which I should refer, for it seemed to be the rock on which the Union was likely to split, namely, the question of the English and Dutch language. There were those who said it was impossible of solution, but a solution has been found entirely in accordance with the whole spirit of the Bill by putting the English and Dutch languages on an absolute equality in all respects. In all official documents, the courts of law, and the Houses of Parliament, the Dutch have been given equal rights and equal privileges. I cannot forbear from making my second quotation from a very striking and eloquent speech which Dr. Jameson delivered, and when we reflect who is the speaker and who is the man of whom he speaks, I think we shall realise how far South Africa has advanced on the road to union. Dr. Jameson, speaking on 15 February this year at Grahamstown, said :—

“And this one word is that everybody in South Africa owes a debt of gratitude to Mr. Steyn, the late President of the Orange Free State, for the high-minded and disinterested attitude which he had taken up all through the Convention. It was a speech of his that cleared up to me the real meaning of the language question. We knew of their love for their mother-tongue, but we did not realise the enormous meaning of this language question to a proud people like the Dutch, because it was not merely the love of their mother-tongue, but that the fact of their language not getting, in their view, proper treatment was a symbol of inferiority between the races. That I understand. That I

can share, and I went the whole hog and the whole length in the matter, and now we have absolute equality between the two languages. I believe what we have passed will be acceptable to the whole country, and that this will do away with the language question."

It appears likely that Dr. Jameson's prophecy will be found true, and certainly all of us here who have followed the events of the past will endorse every word he said about Mr. Steyn. Mr. Steyn has been a noble and, indeed, a pathetic figure in the history of the Union. He fought his hardest to the end, and when the struggle was over he devoted his whole energies to the task of union. That is an example to us. Only one other word as to the powers and duties in the Bill. As to Clause 147 [administration of native affairs], my hon. friends both wish to extend that part of the Bill to matters specially affecting natives. The care and treatment of natives are given to this great central power. Again, in the Amendment introduced with the full concurrence of the delegates, for it merely carries out their well-known wishes, all matters specially or differentially affecting Asiatics are also given exclusively to the Union Parliament to control. There is another provision—that special powers heretofore belonging to the Governors or Governors in Council shall now be exercised by the Union Parliament—that is, by the Governor-General in Council. All matters affecting native reserves, native locations, all matters affecting native trusts, of which there are two instances in Natal, will be in the care of the central authority. . . .

Now I come to the schedule. I may say at once, in order to clear away misapprehension which still seems to exist, the schedule of the Bill is purely permissive. It does not bring transfer an hour nearer. In fact, in so far as it goes, I think it will be conclusively proved that it makes it somewhat more difficult. What it does



is to lay down certain conditions. If and when the Central South African Government wishes to take over one or more Protectorates, as we anticipated in the Resolution that they would, and if and when His Majesty's Government agree, then we say that certain broad principles—and when I say we, I mean this Government and the South African delegates—which this House holds especially dear, shall be observed. The sale of liquor to natives shall be prohibited. Their lands shall be guaranteed to them. They shall not be taken away. Finally, a form of government is proposed to be set up which will prevent that sudden break from one form of government to another, which all of us here who try to understand this difficult matter know would be so disastrous to native interests. If the Bill passes, as His Majesty's Government hope and trust it may, and it comes into full operation, in the long distant years it well may be when these Protectorates are transferred, instead of having a sudden transfer from the control from the High Commissioner's office, as we have at present, with a staff that has a special knowledge of native wants and reasonable native wishes, in fact a transfer to a Government direct from a Parliament without any antecedent machinery, you will have the transition so gradual that I hope and believe that the natives will never know from anything that occurs to them that the transition has been effected. It may be that the very same men will administer exactly the same kind of law in exactly the same kind of way. If that should come about, it would be a fortunate solution. It would be carrying out the wishes of this House, expressed in the Resolution which I may be permitted to quote: "The House trusts that His Majesty's Government will welcome the adoption of the provisions calculated to render possible the ultimate inclusion of the whole of British South Africa" [An Hon. Member:

"In a Federal Union"]. It does not make any difference to the Protectorates whether the Union is federal or unified, except that on all hands it is agreed that the unified form is preferable. It will make that transition, when it comes, as little sudden as it possibly can be, and it may well be hardly perceivable to the natives themselves as far as their own states and rights are concerned.

I have concluded the general outline of the Bill. I have only touched on a few of its more salient features. . . . Let us come for a moment to the criticisms which have been levelled against the Bill. Everyone, in whatever part of the House he sits, I am sure will see that this is a great and statesmanlike measure. They admire the sentiments of those who have inspired it. They know that those who want this Bill mean to do right and justice to all men and all races and creeds in South Africa. Naturally it is not perfect, and criticisms have been levelled against certain points. There are about three points on which criticisms have been directed. The first is with regard to the provisions that in order to be a Member of the Senate or of the House of Assembly it is necessary to be a British subject of European descent. With regard to this disability imposed upon election to the Union Parliament, I may at once, speaking for the Government, say that we regret that these words are in the Bill, but we know they form part of an essential compromise, and for this reason, that when the House granted self-government to the Transvaal and the Orange River Colony, it granted them a franchise which excluded the natives from the vote and still more from the Parliament. On the other hand, the Cape has for many a long year, for 55 years if I remember aright, had a franchise of a restricted nature, which some, though not a great proportion of the natives can enjoy. Therefore, you have these two

divergent systems, to both of which we in this House had formerly assented. One says : " We will endeavour to treat the native as an equal in all respects, provided he comes up to a certain, not so much intellectual as monetary standard." That is a system which we have endeavoured to follow ourselves. The other system says : " The native must be treated with every consideration, but you will treat him as you would treat a minor in this country. You will not let him have all the privileges of an adult. He will grow up in time. For the present you cannot give him equal rights. You are imposing disabilities upon him now, and you must treat him as a minor with regard to political rights." To that also we have assented. There were at that time a few who did not assent. My right hon. friend the Member for the Forest of Dean (Sir Charles Dilke) pointed out that this was falling away from the principle which we had long adopted ; but the House as a whole assented, and assented to it unanimously, or at any rate without dissent. That being the state of affairs, we have established these two systems ourselves in South Africa. How is a compromise to be effected ?

The compromise effected is this, that while every native in Cape Colony retains his right to vote, the chance of being deprived of his vote is specifically made more remote than in the case of other classes of persons. On the other hand, the native is debarred from sitting in the Union Parliament because he was debarred from sitting in two of the Parliaments by our action here. On that a compromise is arrived at, and I can only assure the House, speaking with all seriousness, that we know if these words were struck out the Union would be smashed, with results most evil to the natives whom we wish to protect. I am told on all hands by those who have most reason to know that if we were to break up and smash this great Act of Union for the sake

of these words the result on the native races of South Africa in breaking down the rapidly growing sympathy between the two races must be disastrous in the extreme. In reference to the criticisms on this question, may I point out that the Government of this country have assented to similar words in a very recent Act ; and that in our own official documents here they have not only words as stringent but words more stringent limiting the highest posts in this country to persons of a particular sect. And I ask the House in all seriousness, can we now break up this great measure of conciliation, causing possibly infinite damage to the people whom we set up to protect, for the sake of a principle to which we ourselves have not been faithful? I believe we can do no such thing. I do not think it would be fair. I turn to the other question, to the Cape franchise, which is not a matter so much of striking out or leaving in words as a matter of degree. There are those who say a two-thirds majority is not sufficiently large. I pass by, of course, the suggestion that a two-thirds majority being taken to be necessary to disfranchise the coloured vote is an invitation to secure that majority, because, of course, as everyone in South Africa knows that a two-thirds majority obviously must be to some extent a safeguard. It cannot be anything else. The question is, Is it enough? First let us ask if it is likely that the attempt will be made to disfranchise the Cape natives, and next, if it is likely to succeed if made? It would seem to me to be the last body to take that course. The South African Parliament will, as I have shown, have matters of vast importance to deal with ; they have a great machinery to set up and get going, and are they likely to take a course which must involve such infinite trouble while they are busy with other things, and, above all, are they likely to do it when the system is working so admirably and

so well? It seems to me really unlikely, if we are to judge by history. I have endeavoured to find a single instance where a great body of persons like this, a whole race, has been disfranchised in democratic times. If there is such an instance, I cannot find it. Is it likely then that it will be attempted? To leave the realms of speculation, if it were attempted, would it succeed? That such a thing will happen I cannot believe. In order that it should succeed, at least two-thirds of both Houses sitting together would have to vote for it. The total number of the two Houses is 161, and two-thirds of that is 108; therefore unless my arithmetic is wrong, if 54 persons can be found to vote for the colour franchise, it must remain. In that Assembly of the two Houses the Cape will be represented by 59 persons, 51 of their own members and 8 of the Senate. Are they likely to risk the storm that would be created by interfering with a system that has worked so well? But to these, again, have to be added the four senators specially elected, or rather, nominated, to look after native interests and their reasonable wants and wishes. Can anyone say that the vote for the natives of Cape Colony is not a reasonable wish?

[In answer to a query by Mr. Byles, whether in the event of 8 Cape votes going against the native franchise, it would be lost, Col. Seely dissented, reminding the House of the presence of the 4 non-party senators, and expressing the opinion that nothing but a cataclysm would take away the coloured vote.] There is one other safeguard. It is specially laid down in the Bill that any such attempt as this, if carried, must be automatically reserved—that is to say, if such a law were passed—and I believe it to be impossible—instead of its coming into operation at once, it would have to come over here, weeks later perhaps, to be considered. But after the law has come into operation under this clause it has



no force—no action can be taken under it until the Secretary of State has seen his way on behalf of the Government to advise His Majesty to assent to it. South Africa herself has inserted this added safeguard, and I am sure the House will see that in a matter of this kind and of this gravity the safeguard is not illusory. South Africa has inserted those words herself in the Bill; South Africa herself has inserted the safeguard. I am quite confident that all these safeguards would not have been inserted at all unless South Africa meant to play fair by the natives. Then there is the proposal to omit the Schedule of the Bill, and here I confess I am completely puzzled not by the proposal itself, but by the source from which it comes, and with great respect I believe it is due to a misapprehension. If those who take the view that our only wise course is that everything with regard to the natives in South Africa should be referred, then one can easily understand, if you refer everything, that the proposed safeguards would be better left out altogether, but to those who wish to impose safeguards, the argument seems to be quite incomprehensible, and for this reason: As I said in the earlier part of my speech, the insertion of the Schedule does not bring the transfer one hour nearer. On the contrary, so far as it goes, it makes transfer somewhat more difficult and unlikely.

What are the conditions imposed if transfer does take place? They are all provisions in favour of natives. I have endeavoured to make plain to the House the broad aspects of this Schedule, and I think we can safely defy anyone to say that the Schedule is not from first to last designed to protect native rights and native interests. If you were to drop the Schedule, the power of South Africa—such as it is—to take over the Protectorates would remain precisely the same, but you would have lost the safeguards. I have seen it suggested—and this

is the only argument with which I will deal—that there is native unrest on account of the Schedule. But I can assure the House that cannot possibly be the case. The natives are anxious as to their future. They have a very touching desire, which is gladly recognised at the Colonial Office, for Downing Street Government. I need hardly say that we appreciate that, because it is not so general as it ought to be. Lord Selborne has been to each Protectorate, and has fully explained to each of these great communities that it is not proposed to hand over the Protectorates at once, or even soon. But he said: “If and when you are handed over under the Schedule, your right to your lands, your right to be protected, your right to your native Assemblies are all granted to you.” I will not say that the natives are quite satisfied. Of course, they never can be wholly satisfied so long as they consider that Downing Street Government is better than South Africa Government. At any rate, the Schedule is an advantage, and they know it to be so, and if the proposition to drop the Schedule were accepted—which I am sure it will not be for a moment—it would indeed cause native unrest, for they would say the power of transfer remains, but the safeguards are gone. . . . Of course, it may be asked, “Will this House be consulted?” That is not provided under the Schedule. We cannot bind our successors, whoever they may be. It is in the last degree unlikely that our career will be prolonged to such an extent as even the most hopeful of us can dream of, that we shall see this question arise while we are in office. It is a most unlikely thing to occur. Whether such a thing occurred or not, however, the House may rest assured—and I have the full authority of the Government and of the Prime Minister for saying so—that it will have the fullest opportunity of considering the matter before the transfer of the Protectorates. I trust I have satisfied

the House on the point as to the Schedule, which I am sure rests purely on a misapprehension. Before I conclude I must say this with regard to the first Amendment, and possibly others. I said that such an Amendment would smash the Union. That is not all because the delegates who have come to this country are people who will not listen to reason; it is because we are dealing not only with persons, but with a Parliament. The instructions to the delegates are pure and precise. Amendments of principle, they cannot, they may not, they have not the power to accept. If we make any Amendment of principle then they must go back to their Parliament and ask that they be endorsed, and that whole long business will have to be gone over again. Whether we will be likely to get what we want, after having exacerbated feeling by interfering, is a very doubtful matter. On matters of detail the House has been good enough, of course, to trust the Government and the Colonial Office to endeavour to make the Bill carry out the intentions of the framers, but on matters of principle the delegates cannot accept Amendments, even if they wish. What is going to be the effect of this great measure on the natives? It cannot but bring them manifold advantages. A central Government, with the best brains in South Africa at its disposal, following one single course that makes for good government, will tend to make native life happier than it has been. Then, again, Union means greater prosperity. The provisions not only in the Schedule, but in the Bill for safeguarding the main native rights, will show the natives of South Africa that they have not been forgotten, and I believe they know they have not been forgotten. That is one of the reasons that made the House, when appealed to by my right hon. friend the Member for the Forest of Dean (Sir C. W. Dilke), the lifelong friend of those native races, accept the Resolution a year and a half

ago; and I am confident the House is of the same mind as to this Bill. All the advantages I have enumerated must tend to better government, common railways, the abolition of hampering tariffs and restrictions, Free Trade within South Africa, as it is styled in the Bill, which will, I am sure, appeal to hon. Gentlemen opposite no less than to those on this side. A common judiciary cannot but appeal, and there is a sense of security that only Union can bring. All these things will tend to better government, and, let us hope, to greater happiness. Of course, it is true that troubles may have to be met in South Africa as elsewhere; but I think we may say when they come, and if they come, those troubles will be more bravely, firmly, and successfully met if this Union is carried through than if the Union had never been.

Mr. LYTTELTON: [The measure as a whole is a wonderful one combining youthful enthusiasm and mature statesmanship, and as such should be received sympathetically by this House. Despite the acute controversy existing on the native question, we have to remember that South Africa wishes that "this shall be the Bill, the whole Bill, and nothing but the Bill"]. . .

I ask the House and those who have advocated the native franchise here to remember this, that this is not merely a South African Bill, fashioned, as I have said, by South Africans, but it is a Bill which is fashioned by four States to whom responsible government has been granted. There have been differences of opinion as to the exact moment of time in which from time to time responsible government has been granted, but I am perfectly certain that once responsible government is granted that it is far better, and you may hold this view even if you have been reluctant to grant it, as soon as it has been granted, and once it has been granted, it is far better to give full and perfect and

unfettered trust to the persons to whom you have given that responsibility. It would take away the grace and seemliness of this grant of responsible government if any other view were taken; nor do I believe it is possible with any degree of sound policy to act in any other way than that which I have ventured to outline. If you interfere substantially as between the black races and the future Union Government of South Africa, consider the affect upon the situation. At present not merely have those who in that country propose measures which may affect the black races the responsibility, but upon them the consequences of their action will immediately fall. If one false step is taken, not merely upon our fellow-subjects in South Africa, but upon all those near and dear to them, will fall the full consequences of their blunder. . . . I think it best on general principles that we should leave that responsibility, and that we may leave it without much fear if we consider the consequences of the misuse of the powers which are now entrusted to the United Parliament. . . .

Mr. KEIR HARDIE: No one can speak in this Debate without feeling a sense of very great responsibility, because when this Bill has passed through this House, unlike others, it will be beyond recall or possibility of either repeal or amendment, and coming, as it does, with the full authority of the four Parliaments now existing in South Africa, it would be rashness carried to an extreme for the House of Commons, or any Member of the House of Commons, to seek to interfere with the matters affecting those representatives of the four Parliaments in South Africa. I want to preface my remarks by saying that any criticism which we on these benches have to offer to the Bill, or any proposals or suggestions we have to make, as Amendments, do not affect the white population of South Africa, but only those whom



we are bound, as has been freely admitted both in another place and here, to regard as our wards, the coloured or native population, for whom we are more or less directly responsible. . . .

[Mr. Keir Hardie proceeded to oppose the Franchise clauses of the Bill as doing very serious injustice to the natives of South Africa.]

The fact is that the existence of the franchise in the Cape Colony will be regarded as a reflection upon those other portions of the Union where no similar right and privilege has been secured, and for all these reasons there will be a strong induce ment on the part of statesmen and legislators outside the Cape Colony itself to endeavour to have the franchise equalised all over South Africa, not by bringing in the natives or coloured persons in the Transvaal or Orange Free State, but by excluding the native or coloured person where he now possesses the franchise, and this danger is not so very remote as may appear. As a matter of fact, we have several recent declarations on the subject from those who, in the future, will exert the determining influence in South Africa, which show that the apprehensions in the main of the natives are not without substantial foundation. On 24 February this year, for example, General Botha, speaking on this very subject, said :—

“ The difficulty which we encountered was the native franchise. There is not a matter on which I have a stronger feeling than this of the native franchise, but do not let us blame our brothers of the Cape Colony. The native franchise was given to them at the time when they received responsible government. We know that it would be impossible for the Imperial Government to take back that which they have once given in the Cape Colony. We had a two-fold difficulty. How

can you expect the Cape Parliament to pass this draft Constitution if it were to take away the native franchise? The only possible course for us to follow was followed in the draft Constitution and that was to create machinery which would enable the people of South Africa to settle this question." . . . The interpretation of that is that General Botha generously exonerated the white people of the Cape from all blame for having given the franchise to the natives, since that franchise was forced upon them by the Imperial Parliament at the time the Constitution was given. A phrase of that kind gives a fair indication as to the mind of General Botha on this subject. Speaking on the same day—and this dots the "i's" and crosses the "t's" of General Botha's statement—General Smuts says:—

"There was a vast majority of people in South Africa opposed to the native franchise. The Transvaal was very largely opposed to it and so were the Free State and Natal, and for that matter he supposed a large part of the Cape. As Mr. Merriman had said in his speech, the majority of the people of the Cape were opposed to it and on the first occasion that Parliament met it would be swept away. It was found necessary that there should be some check on such arbitrary action but it was not a powerful check. Perhaps it was not a check at all. It had been put in there but he did not think it meant much. At any rate it was a compromise which they had to accept or jeopardise the Union."

Speaking a month later, Dr. Kraus, also a member of the Transvaal Parliament, declared frankly that the white people in South Africa would be traitors to their colour if they did not take away the franchise from the coloured people so soon as the new Parliament met. These things constitute an element of fear in the mind of the native and coloured people in Cape Colony and in Natal, and the Amendments which we shall ask the

House to agree to will be that the European descent qualification shall only apply to the Transvaal and the Orange Free State, and that in Natal and Cape Colony the rights guaranteed to the coloured people by the Constitution granted to them by the late Queen and the Imperial Parliament shall be preserved and maintained, and their right to elect coloured people continued, as it is at the present moment. Then, in regard to the franchise, we shall ask the House to say that just as in the case of the liquor traffic and the supply to natives, so, too, in regard to the franchise, whatever Amendments will be made in the future shall not have the effect of worsening the positions so far as the native is concerned, but shall reserve to him those rights he at present enjoys, and thereby give a lead to South Africa to a further development along the line of progress. . . .

I regard this Bill as being a vital step in connection with the policy for which this country has hitherto stood. I venture to say that there is no Member of the House of Commons, no matter where he sits or to which party he belongs, who will rise in his place and justify the provisions of this measure. No one has done so yet, and I do not think that anyone will do so, and if it be said that to alter the measure will be to wreck the prospects of union, I do not believe it. I refuse to believe that the Dutch people in South Africa value union so little that they would wreck the whole scheme because the House of Commons insists upon protecting the franchise for the natives in Cape Colony and removing the colour disqualification which the Bill contains. To say that the Bill would be wrecked because of these Amendments is almost an insult to the zeal with which these men have worked to bring about Union in that vast territory. But the point is that, for the first time we are asked to write over the portals of the British Empire: "Abandon hope all ye who enter here." So

far as colour is concerned, this Bill lays it down that no native or person of other than European descent can ever hope to aspire to membership in the Parliament of South Africa, and if a native or a person of colour cannot hope to aspire to membership in that Parliament, to rob them of the franchise is a very short and very small step. I hope, therefore, that if only for the sake of the traditions of our dealings with natives in the past, this Bill—before it leaves the House of Commons—will be so amended as to make it a real unifying Bill in South Africa. At present it is a Bill to unify the white races, to disfranchise the coloured races, and not to promote union between the races in South Africa, but rather to still further embitter the relationships. If only from that point of view, it ought to be amended before it leaves the House.





## SECRETARIES OF STATE.

### SECRETARIES OF STATE FOR THE COLONIAL AND WAR DEPARTMENTS FROM 1794 TO 1854.

- 1794. Right Hon. Henry Dundas (afterwards Viscount Melville).
- 1801. Lord Hobart (afterwards Earl of Buckinghamshire).
- 1804. Earl (afterwards Marquess) Camden.
- 1805. Viscount Castlereagh (afterwards Marquess of Londonderry).
- 1806. Right Hon. W. Windham.
- 1807. Viscount Castlereagh (afterwards Marquess of Londonderry).
- 1809. Earl of Liverpool.
- 1812. Earl Bathurst.
- 1827. Right Hon. F. R. Robinson (afterwards Earl of Ripon).
- 1827. Right Hon. W. Huskisson.
- 1828. Right Hon. Sir George Murray.
- 1830. Viscount Goderich (afterwards Earl of Ripon).
- 1833. Right Hon. E. G. Stanley (afterwards Earl of Derby).
- 1834. Right Hon. Thomas Spring Rice (afterwards Lord Monteagle).
- 1834. Earl of Aberdeen.
- 1835. Right Hon. Chas. Grant (afterwards Lord Glenelg).
- 1839. Marquess of Normanby.
- 1839. Lord John Russell (afterwards Earl Russell).
- 1841. Lord Stanley (afterwards Earl of Derby).
- 1845. Right Hon. William Ewart Gladstone.
- 1846. Earl Grey.
- 1852. Right Hon. Sir John S. Pakington, Bart. (afterwards Lord Hampton).
- 1852. Duke of Newcastle.

### SECRETARIES OF STATE FOR THE COLONIES FROM 1854 TO 1909.

- 1854, June 10. Right Hon. Sir G. Grey, Bart.
- 1855, Feb. Right Hon. Sidney Herbert (afterwards Lord Herbert of Lea).
- 1855, May 15. Lord John Russell (afterwards Earl Russell).
- 1855, July 21. Right Hon. Sir William Molesworth, Bart.
- 1855, Nov. 17. Right Hon. Henry Labouchere (afterwards Lord Taunton).
- 1858, Feb. 26. Lord Stanley (afterwards Earl of Derby).
- 1858, May 31. Right Hon. Sir Edward Bulwer Lytton, Bart. (afterwards Lord Lytton).
- 1859, June 18. Duke of Newcastle.
- 1864, April 4. Right Hon. Edward Cardwell (afterwards Viscount Cardwell).

|                 |                                                                                                                   |
|-----------------|-------------------------------------------------------------------------------------------------------------------|
| 1866, July 6.   | Earl of Carnarvon.                                                                                                |
| 1867, March 8.  | Duke of Buckingham and Chandos.                                                                                   |
| 1868, Dec. 10.  | Earl Granville.                                                                                                   |
| 1870, July 6.   | Earl of Kimberley.                                                                                                |
| 1874, Feb. 21.  | Earl of Carnarvon.                                                                                                |
| 1878, Feb. 4.   | Right Hon. Sir Michael E. Hicks-Beach, Bart., M.P.<br>(afterwards Viscount St. Aldwyn).                           |
| 1880, April 28. | Earl of Kimberley.                                                                                                |
| 1882, Dec. 16.  | Earl of Derby.                                                                                                    |
| 1885, June 24.  | Right Hon. Colonel Sir F. A. Stanley (afterwards Lord<br>Stanley of Preston and subsequently Earl of<br>Derby).   |
| 1886, Feb. 6.   | Earl Granville.                                                                                                   |
| 1886, Aug. 3.   | Right Hon. Edw. Stanhope, M.P.                                                                                    |
| 1887, Jan. 14.  | Right Hon. Sir Henry Thurstan Holland, Bart.<br>(created Baron Knutsford, 1888, and Viscount<br>Knutsford, 1895). |
| 1892, Aug. 17.  | Marquess of Ripon.                                                                                                |
| 1895, June 28.  | Right Hon. Joseph Chamberlain, M.P.                                                                               |
| 1903, Oct. 9.   | Right Hon. Alfred Lyttleton, K.C., M.P.                                                                           |
| 1905, Dec. 11.  | The Earl of Elgin and Kincardine.                                                                                 |
| 1908, April 16. | The Earl (afterwards Marquess) of Crewe.                                                                          |

## BRITISH GOVERNORS.

BRITISH GOVERNORS OF THE COLONY OF THE CAPE OF GOOD HOPE,  
1806 TO 1909.

- 1806. Sir David Baird.
- 1807. Hon H. G. Grey (Lieutenant-Governor).
- 1807. Du Pré, Earl of Caledon.
- 1811. Hon. H. G. Grey (Lieutenant-Governor).
- 1811. Sir John Francis Cradock.
- 1813. Hon. Robert Meade (Lieutenant-Governor).
- 1814. Lord Charles Henry Somerset.
- 1820. Sir Rufane Shaw Donkin (acting during the absence of Lord Charles Henry Somerset).
- 1821. Lord Charles Henry Somerset, returned.
- 1826. Richard Bourke (Lieutenant-Governor).
- 1828. Hon. Sir Galbraith Lowry Cole.
- 1834. Lieut.-Col. T. F. Wade (acting Governor).
- 1834. Sir Benjamin D'Urban.
- 1836. Sir Andries Stockenstrom, Bart. (Lieutenant-Governor of the Eastern Province).
- 1838. Sir George Thomas Napier.
- 1839. Colonel John Hare (Lieutenant-Governor of the Eastern Province).
- 1843. Sir Peregrine Maitland.
- 1847. Major-General the Right Hon. Sir Henry Pottinger, Bart.
- 1847. Sir H. F. Young, Kt. (Lieutenant-Governor of the Eastern Province).
- 1847. Lieut.-General Sir Henry G. W. Smith, Bart.
- 1852. Lieut.-General the Hon. G. Cathcart.
- 1852. Ch. H. Darling (Lieutenant-Governor).
- 1854. Sir George Grey.
- 1859. Lieut.-General R. H. Wynyard (Lieutenant-Governor).
- 1860. Sir G. Grey.
- 1861. Sir Philip Edmond Wodehouse.
- 1870. Sir Henry Barkly.
- 1877. Sir H. Bartle E. Frere, Bart.
- 1880. Major-General Sir H. H. Clifford, V.C. (Administrator).
- 1880. Major Sir G. C. Strachan (Administrator).
- 1881. Sir H. G. R. Robinson.
- 1882. Lieut.-General Hon. Sir Leicester Smyth (Administrator).
- 1883. The Rt. Hon. Sir H. G. R. Robinson.
- 1886. Lieut.-General Sir H. D'O. Torrens (Administrator).
- 1887. The Rt. Hon. Sir H. G. R. Robinson.
- 1889. Lieut.-General H. A. Smyth (Administrator).
- 1889. Sir H. Brougham Loch.
- 1891. Lieut.-General W. G. Cameron (Administrator).

- 1891. Sir H. B. Loch.
- 1892. Lieut.-General W. G. Cameron (Administrator).
- 1892. Sir H. B. Loch.
- 1894. General Sir W. G. Cameron (Administrator).
- 1894. Sir H. B. Loch (afterwards Lord Loch).
- 1895. Lieut.-General W. H. Goodenough (Administrator).
- 1895. The Rt. Hon. Sir H. G. R. Robinson, Kt. (afterwards Lord Rosmead).
- 1897. Sir Alfred Milner.
- 1901. The Hon. Sir Walter Francis Hely-Hutchinson.
- 1904. Major-General E. S. Brook (Administrator).

GOVERNORS OF THE COLONY OF NATAL FROM 1893 TO 1910.

- 1893. Hon. Sir Walter Francis Hely-Hutchinson.
- 1901. Colonel Sir Henry E. MacCallum, R.E.
- 1907. Lieut.-Colonel Sir Matthew Nathan, R.E.
- 1909. Lord Methuen.

GOVERNORS OF THE TRANSVAAL AND ORANGE RIVER COLONIES  
FROM 1901 TO 1910.

- 1901. Rt. Hon. Sir Alfred Milner (Baron, 1901 ; Viscount, 1902), G.C.B., G.C.M.G.
- 1905. Rt. Hon. the Earl of Selborne, K.G., G.C.M.G.

[Lord Milner and Lord Selborne held, in turn, the office of High Commissioner of South Africa concurrently with the Governorships of the new Colonies.]

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